

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the  
COMMITTEE ON IMMIGRATION

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October 15, 2014  
Start: 10:10 a.m.  
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HELD AT: Council Chambers - City Hall

B E F O R E: Carlos Menchaca  
Chaiperson

COUNCIL MEMBERS:

Mathieu Eugene  
Daniel Dromm  
Peter A. Koo  
Rafael L. Espinal, Jr.

A P P E A R A N C E S (CONTINUED)

Carlos Valdez  
Northern Manhattan Coalition of Immigrant Rights

Amadu Bello

Maya Wiley  
Counsel to the Mayor

Nisha Agarwal  
Commissioner of New York Mayor's Office of  
Immigrant Affairs

Susan Petito  
Assistant Deputy Commissioner at Legislative  
Affairs of New York City Police Department

Karl Johnson  
Captain at New York City Department of  
Corrections

Robert Morgenthau  
Law Firm of Wachtell, Lipton, Rosen & Katz

Jenny Alcaide  
Kathryn O. Greensberg Immigration Justice Clinic  
at Cardozo School of Law

Daniel Coates  
Make the Road New York

Alisa Wellek  
Co-Executive Director of Immigrant Defense  
Project

A P P E A R A N C E S (CONTINUED)

Lenore Friedlaender  
Assistant to President at SEIU Local 32BJ

Donna Lieberman  
New York Civil Liberties Union

Peter Markowitz  
Cardozo Law School

Emily Tucker  
Center for Popular Democracy

Jesus Garcia  
Cook County Commissioner

Latoya Cantrell  
New Orleans City Council Member

Larry Gossett  
King County Commissioner

Marie Mark  
Brooklyn Defenders

Genia Blaser  
Bronx Defenders

Gavino Hernandez

Jasmine Rodriguez

Joseph Rosenberg  
Catholic Community Relations Council

A P P E A R A N C E S (CONTINUED)

Abraham Paulos  
Families for Freedom

Cynthia Conti-Cook  
Legal Aid Society

Marissa Ram  
Safe Horizon

Farrin Anello  
Center for Social Justice

Hedwin Salmen-Navarro  
Co-Chair of Immigration Customs  
Enforcement/Enforcement and Removal Operations  
Committee, AILA

Corey Forman  
Co-Chair of Immigration Customs  
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Helen Drook  
New York Legal Assistance Group

Oriana Sanchez  
New York Immigration Coalition

Juana Peralta  
Sylvia Rivera Law Project

Caroline Solis  
Neighborhood Defense Service Harlem

A P P E A R A N C E S (CONTINUED)

Nabila Taj  
CUNY School of Law



2 CHAIRPERSON MENCHACA: Again, Buenos  
3 dias. My name is Carlos Menchaca, and I am the Chair  
4 of the New York City Council's Committee on  
5 Immigration. Before going any further I would like  
6 to introduce the other members of the committee that  
7 are here today. We are joined by our Speaker Melissa  
8 Mark-Viverito. We are joined by Council Member Danny  
9 Dromm. We are joined by Council Member Peter Koo and  
10 Council Member Crowley. We're going to move today.  
11 The Committee on Immigration will hold a hearing on  
12 two important and timely bills that build upon our  
13 prior efforts to limit the cooperation between  
14 immigration and customs enforcement, commonly known  
15 as ICE and local law enforcement. For far too long  
16 our city has cooperated with ICE as they enforce  
17 civil immigration by deporting individuals who do not  
18 pose a public safety concern. Today, the committee  
19 will hear testimony regarding two bills introduced by  
20 Speaker Melissa Mark-Viverito who continues to  
21 demonstrate time and time again her unwavering  
22 commitment to the immigrant community. Intro Number  
23 487 is a local law that seeks to amend the  
24 administrative code of the City of New York in  
25 relation to persons not to be detained by the NYPD,

2 and Intro Number 486 is a Local Law that seeks to  
3 amend the administrative code of the City of New York  
4 in relation to persons not to be detained by the  
5 Department of Correction. The proposed legislation  
6 builds upon the work, the long time work that the  
7 City Council has been doing and adopting in Local  
8 Laws 21, 22 of 2013. They limit the cooperation  
9 between the city and ICE. Under the proposed  
10 legislation, the New York City Police Department and  
11 the Department of Correction would only honor an  
12 immigrant detainer if it was accompanied by a warrant  
13 from a federal judge, and also only if that person  
14 had been convicted of a violent or serious crime  
15 during the last five years, or his or her name was  
16 listed on a terrorist database. If enacted, these  
17 bills will protect New Yorker from being deported  
18 when they pose no risk to public safety. As the  
19 federal government continues to postpone necessary  
20 action to reform our broken immigration system, ICE  
21 is allowed to continue to treat immigrants in  
22 violation of civil laws as criminals. ICE's actions  
23 have resulted in the forcible separation of thousands  
24 of families in our city, and more alarmingly, they  
25 have led to the defacto deportation of American

2 citizen children who are forced to return to their  
3 parent's country of origin. Immigrant communities  
4 have grown weary of reporting crimes or otherwise  
5 cooperating with law enforcement in fear that this  
6 interaction would lead to their deportation. It is  
7 my hope that if passed, these bills will allow law  
8 enforcement to better protect immigrant communities  
9 and to be an initial step toward improving an already  
10 strained relationship. Today's bills are the result  
11 of our city's commitment to ensuring that immigrants  
12 are treated fairly and are not unnecessarily torn  
13 apart from their families. I would like to thank the  
14 Administration, community organizations, and the  
15 individuals for providing testimony today crucial to  
16 understanding the impact of the proposed legislation.  
17 Please be aware that we have a large number of  
18 individuals providing testimony today and we will be  
19 limiting the testimony to three minutes. For  
20 individual committee members, they will have two  
21 minutes to do the questioning. Additionally, we are  
22 providing interpretation services if you require an  
23 interpreter. Please go to the back left of the room  
24 to request one. With that, I will give our Speaker

2 Melissa Mark-Viverito, the lead sponsor of the  
3 proposed legislation, an opportunity to speak.

4 SPEAKER MARK-VIVERITO: Thank you, Chair  
5 Menchaca and also your steadfast commitment. I have  
6 to say that it's an extremely proud moment, and I  
7 really want to thank the advocates first and foremost  
8 who have been steadfast in helping raise awareness to  
9 Council Members. I know when we first met years ago  
10 with regards to the prior bill, but your steadfast  
11 commitment to making sure that we got and we arrived  
12 at the point at which we find ourselves today. I'm  
13 proud to be allied and to have been supportive of  
14 your efforts. I do want to just recognize quickly  
15 that we've been joined by our former Manhattan DA and  
16 someone who is an incredible advocate for immigrant  
17 rights, Robert Morgenthau who's here. Thank you very  
18 much for joining us. So I want to say good morning.  
19 Buenos dias a todos, and thank you Chair Menchaca for  
20 holding this hearing on an important issue that the  
21 council has been diligently working on, and which  
22 effects thousands of immigrants across this city.  
23 Today, we will be hearing two bills that will  
24 dramatically limit the city's cooperation with  
25 Immigration and Customs Enforcement, also known as

2 ICE in the enforcement of civil immigration laws. I  
3 would like to thank the co-sponsors of this  
4 legislation, Council Members Dromm, Menchaca and  
5 Espinal, as well as my council colleagues and  
6 advocates for their unwavering support for this bill  
7 and for the commitment to our immigrant community.  
8 This bill will prohibit the Department of Correction  
9 and the Police Department from honoring civil  
10 immigration detainer requests issued by ICE unless a  
11 federal judge issues a warrant and the subject of the  
12 detainer has been convicted of a violent or serious  
13 crime. These bills are simple. They're about  
14 respecting the civil rights and the dignity of New  
15 Yorkers. They're about keeping hardworking families  
16 together. They're about keeping New Yorkers safe and  
17 secure, and they're about simple fairness. New York  
18 City has no business expending scarce resources,  
19 assisting in the enforcement of broken immigration  
20 laws. If Congress won't act, we must. So in addition  
21 to significantly reducing the number of ICE civil  
22 detainer requests the city will honor, we will also  
23 remove ICE offices from Rikers Island. Under Intro  
24 486, ICE may no longer maintain offices on Rikers  
25 Island. We cannot allow immigrant families looking

2 for a better life to be needlessly torn apart. These  
3 bills will greatly reduce unnecessary deportation of  
4 New York City residents while maintaining public  
5 safety as we've been saying over and over again.  
6 Though dragnet and the way that these federal  
7 policies are being implemented right now where we're  
8 seeing record numbers of deportations, that is all  
9 false sense of security, right, that people are  
10 given. And we're expending resources that are so  
11 necessary elsewhere. And not only is it the product  
12 as we were talking to the advocates in terms of the  
13 resources that we spend as a city, but also looking  
14 at the organizations that are providing the services  
15 in defending, right, those that are being issued  
16 these orders of detention. So, those resources can  
17 once again be reinvented in our communities in ways  
18 that are more effective. So before closing, I just  
19 want to give a special thanks to Maya Wiley who's the  
20 counsel to the Mayor as well as Nisha Agarwal, both  
21 who are here from the Mayor's Office of Immigrant  
22 Affairs, for their work on helping us crack these  
23 bills. I also want to thank Javier Valdes, Executive  
24 Director of Make the Road New York, and Peter  
25 Markowitz from the Director of Cardozo Law School's

2 Immigration Justice Clinic, and the entire coalition  
3 of immigration and civil rights advocates who have  
4 worked on this for their support and patience in this  
5 process. Thank you very much, Chair.

6 CHAIRPERSON MENCHACA: Thank you so much,  
7 Speaker, and I also want to just thank the staff who  
8 have been working so long on this, not just through  
9 time, but just to get us to this point here in this  
10 Immigration Committee, Jennifer Montalvo [sp?], Rob  
11 Newman. We also have our new counsel Katalina Cruz  
12 [sp?], who will be joining us. This is her first  
13 hearing, and then also members of my staff, Lee  
14 Wellington and Vladimir Martinez [sp?]. And so  
15 before we go, I just want to also remember, to  
16 remind everyone that we have translation in the back  
17 and that we are going to now hear from two  
18 individuals who will share their stories about their  
19 own immigration struggles and their experiences with  
20 detainees, and those names are Amadu Bello [sp?] and  
21 Carlos Rodriguez. If you can join us over here.  
22 [speaking Spanish] And there are translators as well.  
23 You can get them. [speaking Spanish] Gracias.

24 UNIDENTIFIED: And you can talk right  
25 into it.

2 CARLOS RODRIGUEZ: Good morning everyone.

3 I want to thank the members of the City Council for  
4 the opportunity to speak. My name is Carlos  
5 Rodriguez, and I'm an active member for the Northern  
6 Manhattan Coalition of Immigrant Rights, an  
7 organization that is been forefront from the  
8 defending the immigrant's communities. I'm a long  
9 time New York resident with a US citizen daughter and  
10 a citizen wife. I am also a chef who's very hard  
11 working employee of the restaurant that I work  
12 presently. I am very grateful that the City Council  
13 has introduced those two bills that would have spare  
14 me so much suffering if they had been introduce and  
15 implemented sooner. In February of 2013 I was  
16 visiting a friend in Washington Heights, and I was  
17 wrongfully arrested by trespassing, and after I  
18 illegally stop and frisk by the New York police.  
19 Even though the trespassing charge it was immediately  
20 dropped, I send the Department of Correction a  
21 detainer request asking that I held because an old  
22 [sic] deportation order. New York City complement  
23 with this voluntary request from ICE, even though ICE  
24 they don't have a warrant for me, I have no criminal  
25 conviction. The order of deportation was saw from

2 very poor and legal assistance and advice from  
3 immigrant attorney years ago. When the city already  
4 the detainee request from ICE, what become  
5 significant destruction in my life turning into  
6 terrifying nightmare. I was thrown [sic] from the  
7 Manhattan Detention Complex, also known as The Tombs  
8 and to an ICE detention in New Jersey in the Hudson  
9 County. And I lost all physical contact with my  
10 families, my daughters and my friends because they  
11 all live in New York and they don't have their own  
12 car so they couldn't go and visit me for a month  
13 while I was in custody from ICE. I don't have--I  
14 didn't have no idea how long I was going to stay in  
15 there and what was going to happen. I don't have no  
16 idea. Any night I couldn't sleep because I don't  
17 have no idea if they just going to wake me up and  
18 deport me. During those eight months my family  
19 suffered a lot. I lost my job as a chef and also my  
20 mother and my sister, they was about to lose their  
21 apartment because they was available with my support.  
22 So, and even--alright. And if New York City had  
23 passed both of those bills sooner, I wouldn't have  
24 been released from the Department of Correction once  
25 the trespassing charges was dropped. I could have

2 been returning to my job and been with my family  
3 while fighting with my deportation case. I'm  
4 personally grateful to the Speaker Melissa Mark-  
5 Viverito, Council Member Carlos Menchaca, Council  
6 Dromm and Council Ydanis Rodriguez and the rest of  
7 the City Council that are working. I also want to  
8 send the Cardozo Law School and the Coalition for New  
9 York Coalition Immigrants' rights for helping out in  
10 my case. And they are still fighting my case because  
11 it is pending on deport. Thank you.

12 CHAIRPERSON MENCHACA: Thank you for that  
13 testimony, and Mr. Bello?

14 AMADU BELLO: Bonjour [speaking French?]

15 CHAIRPERSON MENCHACA: Can we make sure  
16 his mic is on, red button close to the--

17 AMADU BELLO: Bonjour [speaking French]

18 TRANSLATOR: Good morning, my name is  
19 Amadu Bello. I would like to say thank you for the  
20 opportunity to testify and for the leadership of the  
21 City Council and Speaker Melissa Mark-Viverito.

22 AMADU BELLO: [speaking French]

23 TRANSLATOR: I'm from the Central African  
24 Republic and came fleeing persecution in my country  
25 in 2002. If I had stayed I would have died. I left

2 my family in a refugee camp in Chad as I came here  
3 hoping to get protection in the US and bring my  
4 family to join me.

5 AMADU BELLO: [speaking French]

6 TRANSLATOR: When I came here I applied  
7 for asylum. The case took years to finish, however,  
8 and at the end the judge said she was sorry for what  
9 I had suffered, but that because the government had  
10 changed in my country, I could go back to my country  
11 now. She denied my asylum case and gave me a  
12 deportation order, but my family still in Africa,  
13 still in a refugee camp said it was not safe for me  
14 to return, so I stayed.

15 AMADU BELLO: [speaking French]

16 TRANSLATOR: I worked selling bags on the  
17 streets in Manhattan. Like many street vendors, I  
18 could get--I could not obtain a license to sell the  
19 bags because they are expensive and hard to get.  
20 Because of this, I sometimes got tickets from the  
21 police for selling without a license. One day I got  
22 a ticket and was also arrested. They took me to jail  
23 where I was two months before my case was dismissed,  
24 but because I had an old deportation order I could  
25 not leave the jail. Immigration Officers came and

2 picked me up and took me to a detention center where  
3 I spent the next eight months terrified thinking I  
4 would be deported.

5 AMADU BELLO: [speaking French]

6 TRANSLATOR: I was lucky. I got an  
7 attorney, Alexia from Make the Road New York who's  
8 helping me. She reopened my case and I am now  
9 reapplying for asylum. There are many others like me  
10 who are not so lucky and who are not able to get an  
11 attorney who can fight their case. Many people get  
12 deported because of the connection between ICE and  
13 New York City. Some of these are people with families  
14 here. Others, like me, are people who will be killed  
15 if they return home.

16 AMADU BELLO: [speaking French]

17 TRANSLATOR: I support the proposal today  
18 because no one should have to spend eight months in  
19 detention, face potential death, due to a criminal  
20 charge that ends up being dismissed. People who are  
21 in my situation, the future should not have to go  
22 through what I went through. Thank you for the  
23 opportunity to share my story.

24 CHAIRPERSON MENCHACA: And I just want to  
25 say thank you to both of you for sharing your

2 testimony, for giving us a sense about what's  
3 happening with both of you from your families to the  
4 deportation proceedings to how you got essentially  
5 connected to this broken system. So I just want to  
6 say thank you to doing that. We're going to hear  
7 from the Administration, but before, I want to let  
8 the Speaker address you.

9 SPEAKER MARK-VIVERITO: No, I wanted to  
10 just reiterate what the Chair said. Normally, we  
11 don't have the testimonies of those affected ahead of  
12 the Administration, and this is obviously something  
13 that I thank the Chair for encouraging because it's  
14 always good to hear and get the context as to the  
15 importance of the legislation that we've, we're  
16 enacting today or that we're hearing today to enact  
17 in the future. So thank you very much. I know it  
18 takes a lot to be here. [speaking Spanish]

19 CHAIRPERSON MENCHACA: And I just to want  
20 everyone know we're going to hear from more affected  
21 individuals later in the testimony, but we want to  
22 transition right now to the Administration.  
23 [speaking Spanish] And so thank you so much. And so  
24 next we're going to have from the Administration,  
25 Counsel to the Mayor, Ms. Maya Wiley and Commissioner

2 Nisha Agarwal, please. And we've also been joined by  
3 Council Member Eugene. And as soon as you're ready  
4 you can begin. Just make sure that the red light is  
5 on.

6 NISHA AGARWAL: Thank you to Speaker  
7 Mark-Viverito, Chairman Menchaca and the members of  
8 the Committee on Immigration for the opportunity to  
9 testify today. I also want to thank the Council and  
10 the Speaker in particular for your leadership on this  
11 issue for many years. My name is Nisha Agarawal, and  
12 I'm the Commissioner of the New York City Mayor's  
13 Office of Immigrant Affairs, our charter mandated  
14 office that recommends policies and programs to  
15 improve the lives of immigrant New Yorkers. On  
16 behalf of the Administration, I'm pleased to announce  
17 our support for Intros 486 and 487. These two bills  
18 will prevent some 2-3,000 New Yorkers per year from  
19 being held in city custody beyond the time when the  
20 Criminal Justice System says they should be released.  
21 Solely for the purpose of helping Federal Immigration  
22 Officials take custody of them so they can be placed  
23 in detention and deportation proceedings. These are  
24 individuals, lawful permanent residents and visa  
25 holders as well as undocumented immigrants who pose

2 no significant threat to public safety. To the  
3 contrary, the vast majority of these immigrants have  
4 family and community ties to this city and call it  
5 home. Intros 486 and 487 will treat these immigrant  
6 New Yorkers equally to all others in our criminal  
7 justice system who when they are released by a judge  
8 or jury are allowed to return home to their families  
9 and jobs. In addition, these bills will contribute  
10 to trust between immigrant communities and the  
11 police, encouraging victims of crime and witnesses to  
12 come forward to work with law enforcement. New York  
13 City was among the earliest voices on the issue of  
14 overbroad civil immigration detainer requests and  
15 Mayor de Blasio pledged as Public Advocate and as  
16 Mayoral Candidate to end the city's cooperation with  
17 these requests, except where it was warranted as a  
18 public safety matter. With these bills, we cannot  
19 only continue to improve the way we treat our  
20 immigrant residents, but we can also reaffirm our  
21 leadership in the growing movement among cities,  
22 counties and states to take local action to better  
23 serve all of our residents in the absence of viable  
24 reform at the federal level. Local law enforcement  
25 agencies involvement in civil immigration enforcement

2 originated with President Reagan signing of the  
3 Narcotics Traffickers Deportation Act, a part of a  
4 broader Anti-drug Abuse Act of 1986. That law  
5 authorized federal officials to issue detainers to  
6 request that local police and jails hold an immigrant  
7 beyond the time when he or she is due to be released.  
8 In 2003, the detainer process was codified in  
9 immigration enforcement rules. Detainers  
10 proliferated as proponents of harsher enforcement  
11 measures, including individuals like Kris Kobach, the  
12 man behind the now largely invalidated Arizona law  
13 SB1070, pushed a theory that saw local and state  
14 governments as force multipliers, effectively  
15 expanding the capacity of federal immigration  
16 authorities far beyond the borders. This model was  
17 enthusiastically adopted by the federal government  
18 over the last decade with the extension of the  
19 criminal alien program into local jails, including  
20 New York City's jails and the adoption of the 287G  
21 Secure Communities Programs. These programs rely on  
22 local manpower, resources and information to vastly  
23 extend the reach of federal enforcement, primarily  
24 through the broad issuance of detainers. This  
25 enforcement model has created a situation in which

2 local police and correctional resources are now used  
3 to hold thousands of New Yorkers who pose no safety  
4 threat for longer than is necessary. Through the  
5 detainer process, localities including New York City  
6 have been helping federal immigration authorities do  
7 their job at considerable cost to New York City  
8 families and the public fisk [sic]. In response to  
9 this trend, in 2011, the City Council adopted one of  
10 the first detainer discretion laws in the country,  
11 sponsored by then Council Member Mark-Viverito. New  
12 York City was a leader in recognizing that civil  
13 immigration detainees were merely requests from  
14 federal, ICE, as opposed to mandatory orders. That  
15 2011 law directed the Department of Corrections not  
16 to hold individuals based on a civil immigration  
17 detainer unless the individual had a criminal  
18 conviction, still had an open criminal charge or  
19 warrant, or had a prior order of removal among other  
20 grounds. The results were that DOC declined to hold  
21 individuals subject to detainer requests in 27  
22 percent of cases. In 2013, Speaker Mark-Viverito  
23 again sponsored legislation on this topic in response  
24 to the activation of the controversial federal Secure  
25 Communities Program in New York State. The 2013

2 bills further limited the circumstances in which DOC  
3 was authorized to extend its detention of individuals  
4 who were due to be released, and these bills also  
5 restricted the extent to which the police department  
6 would honor detainers. The result of these changes  
7 was that DOC declined to hold individuals subject to  
8 detainers in 36 percent of the cases and NYPD  
9 declined to hold individuals in about 48 percent of  
10 the cases. Since New York City first took action on  
11 this issue, there has been a growing recognition  
12 about the destructive impact of federal immigration  
13 detainer requests on local communities. Judges  
14 across the country have decided that Civil  
15 Immigration Detainers are non-mandatory requests to  
16 local law enforcement agencies, and ICE now concedes  
17 that point. Other cities, counties, and states have  
18 followed New York City's lead. In fact, more than  
19 200 jurisdictions across the United States are now  
20 limiting their cooperation with detainer requests.  
21 These bills, Intros 486 and 487 advance several  
22 important interests of the city. The first is family  
23 unity. The proposed legislation will help bring  
24 stability to our communities by keeping families  
25 together, as was discussed by the individuals who

2 testified previously. Second, these bills will  
3 advance important city interests in community trust  
4 and public safety, drawing a clear lien between local  
5 law enforcement and Federal Civil Immigration  
6 Enforcement will foster trust between the city's  
7 immigrant communities and local law enforcement  
8 agencies. This line drawing will support community  
9 policing practices and promote public safety by  
10 eliminating fear for immigrant victims of crime and  
11 witnesses to come forward to work with law  
12 enforcement. Law enforcement leaders throughout the  
13 country have spoken out publicly about how blurring  
14 lines between local policing and immigration  
15 enforcement makes the job of local law enforcement  
16 more difficult. These bills will direct the city's  
17 law enforcement agencies to expend their time and  
18 resources on public safety, rather than undoing the  
19 federal immigration authority's job for them. The  
20 legislation will also encourage the full  
21 participation of immigrants in the civic and economic  
22 life of the city by cementing protections for New  
23 Yorkers regardless of their immigration status.  
24 These bills are consistent with the city's other  
25 efforts to integrate and protect its immigrant

2 population, such as the New York Immigrant Family  
3 Unity Project, the recent response to the influx of  
4 unaccompanied child migrants and the Municipal ID  
5 Card Initiative. Thank you very much for the  
6 opportunity to testify on these two bills. We look  
7 forward to working with the City Council to finalize  
8 the legislation, and I'll now turn it over to Maya  
9 Wiley.

10 CHAIRPERSON MENCHACA: Thank you.

11 MAYA WILEY: Good morning Speaker Mark-  
12 Viverito, Chairperson Menchaca and members of the  
13 Immigration Committee. It's my great privilege to  
14 appear before you today. Thank you for your  
15 leadership on immigration issues and many other  
16 matters of importance to New Yorkers. As Counsel to  
17 Mayor Bill de Blasio, I'm responsible both for  
18 supporting the Mayor's policy initiatives and  
19 ensuring compliance with city, state, and federal  
20 law. The policy decisions around immigration and  
21 customs enforcement detainers implicate all aspects  
22 of my job. It's been my great privilege and I want  
23 to acknowledge the work on the important and complex  
24 questions before us by a number of colleagues from  
25 the Administration including Commissioner Agarwal,

2 Corporation Counsel Zachary Carter, leaders from the  
3 Mayor's Office on Criminal Justice, the New York  
4 Police Department, Department of Corrections, and the  
5 Intergovernmental Affairs Unit of the Mayor's Office,  
6 and I want to give a special recognition to my Deputy  
7 Brittany Saunders who has really led this work for my  
8 team. I'm pleased to join you this morning to  
9 support intro's 486 and 487 which would reform the  
10 city's responses to ICE immigration detainer  
11 requests. The Mayor's platform, as you know,  
12 specifics that detainees should not be honored,  
13 except where is issued against individuals who have  
14 previously been convicted of serious or violent  
15 felonies. The Mayor adopted this position to account  
16 for a range of interests, and the Administration  
17 remains committed to striking the appropriate balance  
18 between them. You've heard Commissioner Agarwal  
19 testify about the Administration's commitment to  
20 ensuring that New York remains a global city and one  
21 that continues to welcome immigrants. In addition to  
22 these commitments, the question of how the Department  
23 of Corrections and New York Police Department should  
24 respond to federal detainer requests designed to aid  
25 in the enforcement of Civil Immigration Law

2 implicates a range of additional public interests.  
3 These include providing a fair and appropriate  
4 process and guaranteeing public safety. So my  
5 testimony will focus on these issues. All New York  
6 City residents, whether US born citizens or  
7 undocumented immigrants should be treated fairly and  
8 appropriately. Even the best intentioned public  
9 servants can make clerical errors. Recall the case  
10 of Mark Little, a US citizen with diabetes and  
11 cognitive impairment. He could read but was barely  
12 able to write. As the New Yorker has reported, after  
13 serving a sentence for misdemeanor assault, he was  
14 flown shackled and handcuffed to Hidalgo, Texas.  
15 There he was taken to the international border and  
16 ordered to walk across a bridge into Reynoso, Mexico  
17 with only the prison jump suit on his back, three  
18 dollars in his pocket and a deportation order for  
19 Jose Thomas. That mistake didn't happen in New York  
20 City, nor should we let it. As you know, if ICE  
21 would like for the purposes of arrest and removal to  
22 assume custody of an individual, it may issue an  
23 immigration detainer, asking that local law  
24 enforcement agency to continue to hold that  
25 individual for up to 48 hours, whether or not the

2 person was every convicted of a crime. ICE transmits  
3 a DHS form I247, checking a box or boxes indicating  
4 why it's requesting that the individual be detained.  
5 Generally, the Department of Correction or New York  
6 Police Department receives no further documentation  
7 to support what has been checked on the box. By  
8 requiring that a judicial warrant accompany the form  
9 I247, the bills ensure that probably cause concerns  
10 are addressed. In addition, a detainer may not be  
11 honored unless the individual has been convicted of a  
12 serious or violent felony offense. Consistent with  
13 the Mayor's platform, the offenses are limited to  
14 those involving violence or force, terrorism, fire  
15 arms, high level drug crimes, or the endangerment or  
16 abuse of children or other vulnerable individuals.  
17 Alternatively, a detainer supported by probable cause  
18 may be honored where the individual in question is a  
19 match in a terrorist screening database. In short,  
20 these bills would support a fair process and ensure  
21 that detainees are honored where there is evidence of  
22 a meaningful risk to public safety. The bills  
23 include other elements designed to focus resources on  
24 those cases in which public safety threat is  
25 pronounced, with the exception of individuals who are

2 matches in a terrorist database, the city would only  
3 honor requests for those with criminal convictions,  
4 not mere charges. In addition, the conviction in  
5 question must have been within the previous five  
6 years with totaling [sic] provisions for periods of  
7 incarceration. This would ensure that individuals  
8 with prior convictions who have not re-offended in at  
9 least five years would not be punished again. The  
10 council bills are not only consistent with the  
11 Mayor's commitment to honoring detainees only where  
12 serious public safety threats are implicated, they're  
13 also aligned with developments in other states and  
14 major cities. As Commissioner Agarwal has noted,  
15 hundreds of jurisdictions across the country have  
16 instituted policies limiting the degree to which ICE  
17 detainees will be honored, with some like the state  
18 of California and King County, Washington, for  
19 example, only honoring detainees in connection with  
20 certain types of offenses as these bills do. These  
21 policy shifts reflect a growing consensus that local  
22 law enforcement and federal immigration enforcement  
23 should generally remain distinct. The administration  
24 does, however, have some suggestions to improve the  
25 bills before us today. We believe that successful

2 implementation of this policy will require a greater  
3 degree of flexibility in the interest of public  
4 safety. We're concerned that the legislation lacks  
5 some delegated authority to identify additional  
6 offenses that would be appropriate to add consistent  
7 with the principles of these bills which we support.

8 The bills do provide that the Department of  
9 Correction in coordination with the police department  
10 may add new crimes codified by the legislator after  
11 the enactment of the legislation through a rule-  
12 making process, and we think that's important and  
13 appreciate that. While we trust that the Council's  
14 been thoughtful and deliberate in determining which  
15 offenses should be included, we anticipate the  
16 changing conditions or experiences may suggest  
17 existing crimes be considered sufficiently violent or  
18 serious that are not currently included in covered  
19 offenses. The city's ability to ensure the  
20 appropriate balance between public safety and the  
21 important interest relevant to this policy should not  
22 be limited to consideration of the limit universe of  
23 new offenses created by state law makers each year.  
24 Consistent with this point, we note that there are a  
25 number of felony offenses that are not included in

2 the bills before us today that we would suggest being  
3 included. These include tampering with a witness in  
4 the first and second degree, B and D felonies  
5 respectively that involve the infliction of physical  
6 injury on individuals who intend to testify or who  
7 have testified in criminal proceedings. They also  
8 include the offenses of sex trafficking and labor  
9 trafficking, which combine elements of violence and  
10 other forms of exploitation of vulnerable  
11 populations. We believe that the Mayor must have the  
12 prerogative to add these and other offenses  
13 consistent with the principles embodied in this  
14 legislation. We also believe that we should add  
15 federal magistrate judges, not just Article Three  
16 judges to the list of those who may issue warrants  
17 consistent with the Intros. Federal magistrate  
18 judges, as you know, regularly issue arrest warrants  
19 in the federal court system and we believe the bill  
20 should reflect that reality. We also believe that  
21 the bills would be strengthened by the addition of a  
22 provision delegating to the Mayor the authority to  
23 add other Article One judges who may in the future be  
24 legally empowered to issue judicial warrants as to  
25 removability. Again, in sum, we support the

2 Council's bills and thank the Council for its hard  
3 and thoughtful work to reconcile the important  
4 objectives of inclusivity and public safety, and we  
5 look forward to working with the Council to ensure  
6 that the city's detainer policy reflects the most  
7 closely held principles and affirms the value of each  
8 and every New Yorker. Thank you.

9 CHAIRPERSON MENCHACA: Thank you so much.  
10 And I know we've been joined by others to the desk  
11 [sic]. Can we have everyone introduce themselves  
12 first, and then I'm going to swear you in.

13 SUSAN PETITO: Good morning. I'm Susan  
14 Petito, Assistant Deputy Commissioner at Legislative  
15 Affairs of the New York City Police Department.

16 CHAIRPERSON MENCHACA: Great.

17 KARL JOHNSON: Good morning. My name is  
18 Captain Karl Johnson from the New York City  
19 Department of Corrections.

20 CHAIRPERSON MENCHACA: Great. And so,  
21 thank you so much for the testimony. We're going to  
22 go right into questions, but before that, I want to  
23 swear you all in for this round of questions. Do you  
24 affirm to tell the truth, the whole truth and nothing  
25 but the truth in the testimony you just gave before

2 this committee and respond honestly to the Council  
3 Member's questions? Great. Thank you so much. I'm  
4 going to hand it over to our Speaker first.

5 SPEAKER MARK-VIVERITO: Thank you, Chair,  
6 and thank you Commissioner and Ms. Wiley for your  
7 testimony. I hear some of the thought process and  
8 recommendations that are being made, but I think we  
9 obviously find ourselves in a really good place, and  
10 it's great to hear the support of the Administration,  
11 and I know having a representative from the NYPD at  
12 the table is also important to again affirm that this  
13 is a proposal that has the full support of the  
14 Administration, and I think that's important. I  
15 just have one question, but there are a couple of  
16 things that I think, Commissioner, you mentioned in  
17 your testimony that I really, really want to re-  
18 emphasize because I think it's incredibly important.  
19 You know, one of them, as you indicated in the  
20 beginning of your testimony, is to say that what  
21 these Intros seek to do is that it's going to treat  
22 these immigrant New Yorkers equally to all others in  
23 our criminal justice system. Again, the reason we're  
24 talking about people that are being held is for a  
25 civil offense. It's not a criminal offense. So,

2 they would be treated as everybody else in the  
3 system, and so that needs to be understood. You know,  
4 this thought process that goes out there of the fear  
5 mongers and people that are the haters out there, as  
6 we say, really want to make it seem like every single  
7 immigrant is, an undocumented immigrant is somehow a  
8 threat to our society and they're out there in the  
9 corners lurching to cause harm. It's just such--it's  
10 so offensive just in thought. So that's important to  
11 note, and these again are civil issues that we're  
12 dealing with. And the other factor is on the cost to  
13 society, not only the cost financially as a city, but  
14 you know, also morally, right? And we're talking  
15 about a lot of times children have been ripping these  
16 families apart, and the way you talk about in your  
17 testimony that reducing the disruption of families  
18 caused by the Federal Immigration Enforcement System  
19 will not only protect children, but will also protect  
20 the city's finances and services by preventing the  
21 family members of deportees from being deprived of  
22 their parents and spousal support and income. So  
23 that again, I think those are two issues that I think  
24 really need to be highlighted about when we take  
25 these measures, that we're looking out for the

2 multiple interests of the city in terms of safety,  
3 finances, but also of these children that a lot of  
4 times, sometimes one parent may be undocumented. A  
5 lot of time the children are US citizens. So that's,  
6 I think, really important. My one question, because  
7 I guess we're in a good place, there's not much  
8 adversarial thought here, that we've been--it's been  
9 made--we've been made aware by advocates that the  
10 Department of Probation has made between 150 to 200  
11 arrests over the past two years based on what ICE  
12 calls administrative warrants. Are you familiar with  
13 the concerns regarding Department of Probation and  
14 where do we find ourselves on that front?

15 NISHA AGARWAL: Yes, so we're familiar  
16 with that. The Department of Probation has received  
17 requests from ICE in the form of administrative  
18 warrants on forms I200 and I205. The Department of  
19 Probation has taken steps to address these requests,  
20 so now all such requests go to the DOP's general  
21 counsel, and the ICE requests will be handled at DOP  
22 in a manner consistent with this legislation.

23 SPEAKER MARK-VIVERITO: Oh, perfect.

2 NISHA AGARWAL: The DOP is currently  
3 crafting an internal policy which we'll hopefully be  
4 able to share soon.

5 SPEAKER MARK-VIVERITO: Perfect, okay. I  
6 appreciate that. I'll let other colleagues ask  
7 questions. Again, thank you so much for being here  
8 and your testimony. It's a great day. Thank you.

9 CHAIRPERSON MENCHACA: Thank you,  
10 Speaker. And my question is really a kind of  
11 comparison question. This is essentially I think the  
12 third time that the Council's back with a new  
13 council, with a new Mayor, and were there any  
14 challenges implementing the local laws that were  
15 passed by the previous council and adopted in the  
16 last sessions that limited the instances that the DOC  
17 and the NYPD honor these detainees? Can you give us  
18 a sense of that history?

19 SUSAN PETITO: There weren't actually any  
20 problems. We did need to do some training of our  
21 Criminal Justice Bureau personnel who are primarily  
22 responsible for receiving and screening detainees,  
23 but once they became familiar with the actual  
24 provisions of the prior law, of the current law, they  
25 were able to apply it consistently. It was somewhat

2 complicated because it had many, many component  
3 parts, which are now actually going to be streamlined  
4 somewhat. There are fewer component parts, so we  
5 don't expect that the new legislation will present as  
6 great a challenge, because also the folks are already  
7 familiar with the concept.

8 CHAIRPERSON MENCHACA: Great, great. And  
9 so next, jumping to the judicial warrants that this  
10 essentially the new piece of legislation really kind  
11 of hovers around this very, very important piece of  
12 the judicial warrants, how does the requirement of  
13 this warrant and the new process, how does that  
14 intervene into the current process and how's that  
15 going to help us get to where we want to get to?  
16 Specifically with the requirement of the judicial  
17 warrant. Tell us how you see this from Department of  
18 Corrections and NYPD.

19 KARL JOHNSON: Well, I don't think it  
20 will vary much from what we currently accustomed to.  
21 So, the only thing that we just got to get acclimated  
22 with is the new codes that we have, you know, as far  
23 as with the felonies, the severe, the periods, five  
24 years convictions, but other than that, I don't see  
25 it causing much issue in the processing.

2

CHAIRPERSON MENCHACA: Okay.

3

MAYA WILEY: From a practical standpoint, essentially, our understanding of the way the legislation will work is in addition to the form that normally both the NYPD and the Department of Corrections would act upon, that we're essentially would be asking that the warrant actually be attached to the form. So the process essentially would be the same except for the addition of the warrant itself.

11

CHAIRPERSON MENCHACA: Great, great. And of course, we're just trying to tease the seamless process that the new law kind of solves with the complicated nature of the previous pieces of legislation is the streamline. I hear that really the only thing that you have to do now is training because it's just an addition to things, and so this is going to be a lot more simple to walk through together.

20

KARL JOHNSON: Right. So, since the last law passed, we got, you know, familiar with the changes. So with this new change it won't be--it won't affect us greatly at all.

24

CHAIRPERSON MENCHACA: Okay, great. So, I'm going to hold a couple more questions. I want to

1

COMMITTEE OF IMMIGRATION

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2 bring other Council Members from the committee up,  
3 and the first person we want to welcome, Council  
4 Member Espinal, and you get two minutes for your  
5 questions.

6 COUNCIL MEMBER ESPINAL: Thank you.

7 Thank you, Chairman Menchaca. I kind of want to talk  
8 about ICE's protocol and how what their behavior is  
9 inside of Rikers Island. I'm speaking from personal  
10 experience. I know someone who went through the  
11 process and was actually deported, and he told me  
12 that when he was, when he went to Rikers, ICE pretty  
13 much comes in and interviews everyone in the prison  
14 who is not a citizen of this country. And after they  
15 serve their sentence they are later held for a day or  
16 two and then picked up and transported to detention  
17 center. Can you tell me more? Is that accurate?  
18 Can you tell me more of what the process is like?

19 KARL JOHNSON: Okay, so I'm not sure that  
20 they actually interview everyone, but when they do  
21 make a request, yes, they an interview and individual  
22 in our counsel visit area, and that individual has a  
23 right to say yes or no. So it's not mandatory that  
24 they do consent to an interview by ICE.

25

2                   COUNCIL MEMBER ESPINAL: So, if the  
3 person in jail says no, how does ICE get permission  
4 or how do they receive this detainer for the person  
5 at the end of their prison sentence?

6                   KARL JOHNSON: They--if they say no, it's  
7 just simply just that. ICE sometimes will--right.  
8 Yeah, so the detainees are not at all connected to  
9 the interviews. That's just totally separate issues.  
10 And so most of the time the inmates do enter the  
11 department with a detainer through the courts. If  
12 ICE wants to interview that individual, yes, they do  
13 put a request through to the department, and that  
14 individual can either accept or deny that interview.

15                  MAYA WILEY: Generally happens through a  
16 fingerprinting process. So, most detainees are  
17 honored when they are honored at the Department of  
18 Corrections, not actually at NYPD, but it's through  
19 the process of going, taking the fingerprints through  
20 a national database. When essentially ICE sees a  
21 match for someone from the fingerprinting process,  
22 and every single person who goes through the system  
23 goes through the fingerprinting process, if they  
24 think the person may be someone who is subject to  
25 removal, that's when they will then submit the

2 detainer. So it actually is a separate process that  
3 happens from the interview itself.

4 COUNCIL MEMBER ESPINAL: Have you seen a  
5 big difference of let's say of the law that Mark-  
6 Viverito passed a few years ago, have you seen the  
7 process change within Rikers Island since then?

8 KARL JOHNSON: Well, I cannot say because  
9 I wasn't around for the previous law. I only came  
10 into familiar with it in the second change, the  
11 current change, rather. So, I couldn't really tell  
12 you if there was a dramatic change or anything else  
13 besides what's happening now.

14 NISHA AGARWAL: I think one thing that's  
15 important to note is when the first law was passed in  
16 2011, then Secured Communities went into effect,  
17 which is this fingerprinting process that Counsel  
18 Wiley was talking about, and that did dramatically  
19 increase the speed with which detainees were dropping  
20 and also the earlier stage at which they were  
21 dropping on individuals. So many people coming into  
22 Rikers already may have had detainees whereas before  
23 that wasn't necessarily happening. So the second  
24 round of laws helped to intervene in that process.

25 COUNCIL MEMBER ESPINAL: Thank you.

2 CHAIRPERSON MENCHACA: Thank you Council  
3 Member Espinal, and we're going to hear again from  
4 Speaker Mark-Viverito.

5 SPEAKER MARK-VIVERITO: Thank you, again  
6 Chair. Apologies, just I wanted to follow up on a  
7 question that I wanted to ask. That one of the  
8 things that we're also hearing from advocates with  
9 regards to the NYPD and obviously the representatives  
10 from the NYPD may be able to answer this, is that  
11 sometimes individuals are being arrested by the NYPD  
12 based on hits in the National Crime Information  
13 Center database stemming from civil immigration  
14 violations. Do you know if this is correct?

15 SUSAN PETITO: I believe there have been  
16 some instances where that might have happened, but  
17 one thing to remember is that when a police officer  
18 is on the street and intends to issue a summons but  
19 does a warrant check, the only information that the  
20 police officer on the street will get from the  
21 dispatcher is a hit or a no hit on a warrant. So in  
22 any case of a warrant hit, the person is brought into  
23 the station house, and the warrant is investigated.  
24 In other words, you know, the desk officer or the  
25 arrest processing officer will look at the--try to

2 contact the individual or the agency who is  
3 responsible for the warrant and whether it's still  
4 valid, acknowledging that some of these warrants may  
5 in fact be administrative warrants issued by ICE. We  
6 intend to create an appropriate procedure to handle  
7 that situation in a manner similar to the detainer,  
8 and you know, in the spirit of the new law. But there  
9 is going--

10 SPEAKER MARK-VIVERITO: [interposing]  
11 Because I would think that that presents an issue of  
12 constitutionality or not. No? In terms of whether or  
13 not we're getting a hit on the database which is a  
14 civil violation of getting picked up and arrested and  
15 held, is that a--I mean, are you saying that that's  
16 being addressed? And I'm sure when the advocates come  
17 up they can speak to the issue as well, but there is  
18 concerns of the constitutionality of that kind of  
19 action, no?

20 MAYA WILEY: Well, I'll take this  
21 question. I think we're very concerned about  
22 protecting constitutional rights, which is why the  
23 NYPD is saying, as well as I can report from the  
24 Mayor's office, going to make sure that we have a  
25 procedure that is compliant with both the US

2 Constitution as well as other laws, and I think all  
3 we're identifying is the way the process actually  
4 works right now, is that the police officer on the  
5 beat doesn't actually know what the warrant is. In  
6 other words, it could be a criminal warrant for  
7 arrest because someone has fled another jurisdiction,  
8 for example. There's just no way for the officer to  
9 know right now. So the commitment is to make sure  
10 that we fix that so that this is in compliance with  
11 the new bills, which we support.

12 SPEAKER MARK-VIVERITO: So that there is  
13 going to be a cross-referencing and trying to align  
14 the policies and procedures so that it all complies  
15 with this law.

16 MAYA WILEY: Yeah, we're going to have to  
17 create an implementation process obviously that  
18 brings us into alignment with the principals that we  
19 share. The question will be how, given the way the  
20 current system works, so we're committed to doing  
21 that.

22 SPEAKER MARK-VIVERITO: Okay, I  
23 appreciate that, and we'll get--we'll talk more about  
24 that later, but thank you so much for clarifying.

2 CHAIRPERSON MENCHACA: Council Member

3 Dromm?

4 COUNCIL MEMBER DROMM: Thank you very  
5 much, Chair Menchaca. Let me start off just first by  
6 thanking our Speaker Melissa Mark-Viverito for all of  
7 the legislation that she has helped to enact in the  
8 last session and for introducing this piece of  
9 legislation as well. As you know, I served as the  
10 former Chair of this Committee, and I believe that  
11 because we enacted the previous legislation we were  
12 able to prevent numerous unfair deportations and this  
13 legislation that we're talking about today is just  
14 going to be additional help in that regard. And I  
15 remember in the hearings that we held on the previous  
16 legislation there were predictions that all heck  
17 would break lose if we did this, and I don't think  
18 that any heck has broken loose and I'm very happy to  
19 hear from both the NYPD and the Corrections  
20 Department, that basically the implementation of the  
21 previous legislation went very, very smoothly, and to  
22 also hear the prediction that you expect that the  
23 implementation of this legislation as we negotiated  
24 out will also go as smoothly. And I also wanted just  
25 to remind people that most people on Rikers Island

2 are detainees. They have not been convicted of any  
3 crime, and I think that's really important for the  
4 public to understand. And most people on Rikers also  
5 are people who cannot afford bail, and that's why  
6 they remain on Rikers, and that's what adds to the  
7 unfairness of the implementation of ICE policies to  
8 deport those who remain on Rikers. So, I think that  
9 this legislation ultimately sends a very positive  
10 message to immigrant communities and one about police  
11 relations with those communities. And I was wondering  
12 if somebody on the panel could address what you think  
13 the relations between NYPD and immigrant communities  
14 in particular, will they improve? How has that  
15 improved in the past, etcetera?

16 NISHA AGARWAL: So, as I mentioned in my  
17 testimony, you know, as we limit the links between  
18 Federal Immigration Enforcement and local law  
19 enforcement, that can only, and I think there's  
20 research to support this, really enhance the trust  
21 between immigrant communities and local law  
22 enforcement. Individuals will hopefully feel less  
23 nervous about stepping forward if they're victims of  
24 crime, more likely to step forward to be witnesses to  
25 serve as witnesses if there have been crimes, and we

2 really hope that this will create a climate of  
3 increased safety and security and trust within  
4 immigrant communities, but really all New Yorkers.

5 COUNCIL MEMBER DROMM: And this is  
6 domestic violence month, right, and we see many cases  
7 in communities like mine, and I just think that  
8 having people feeling more comfortable about  
9 approaching the police department, because it's  
10 domestic violence month I'm going to focus a little  
11 bit on that. This will only tend to help communities  
12 like ours combat the terrible issue of domestic  
13 violence, and so I'm very proud to be a co-sponsor on  
14 this right behind the Speaker, and look forward to  
15 its passage as we move forward. Thank you.

16 CHAIRPERSON MENCHACA: Thank you Council  
17 Member Dromm. We're going to hear now from Council  
18 Member Eugene.

19 COUNCIL MEMBER EUGENE: Thank you very  
20 much, Mr. Chair. Let me first thank the Speaker for  
21 her leadership and also Chair Menchaca, and I want to  
22 congratulate and thank all of you from the panel for  
23 your testimony. Ms. Maya Wiley, in your testimony,  
24 you mentioned that I'm responsible for both  
25 supporting the Mayor policy initiative and ensuring

2 compliance with city, state, and federal government  
3 law, and somewhere you say that all New Yorkers,  
4 whether they're US born citizen or undocumented  
5 immigrant should be treated fairly and appropriately.  
6 I love that, and I commend the Mayor also for his  
7 dedication to make sure that New York City, you know,  
8 will remain a place where all of us immigrants and  
9 born in the United States can feel, you know, home  
10 and enjoy all the benefit of this good city. But  
11 could you tell me or tell us, you know, what  
12 Administration has put in place to implement the  
13 legislation that we are talking about?

14 MAYA WILEY: Well, I think what we've  
15 actually--thank you so much. As you know, you're my  
16 representative as well in a community which has a  
17 very large number of immigrants. So, I think what  
18 we've heard is that we actually have systems in place  
19 already thanks to the previous work of this committee  
20 and the reforms that have already been made, that  
21 largely what we're going to be doing is looking to  
22 ensure that there's proper support and training,  
23 particularly at the NYPD and at Department of  
24 Corrections, that people understand what's supposed  
25 to be attached to the detainer form, because

2 essentially, that's the one of the substantial  
3 changes is that there must be a judicial warrant that  
4 accompanies it. Obviously, the second is the  
5 criminal history, right? Because the Intros have a  
6 provision for identifying which offenses, because  
7 there are offenses, and this is I think important for  
8 everyone to understand based on the principles that  
9 you all have so importantly laid out, there are  
10 crimes that someone may commit, but they are no  
11 violent and not serious, and therefore, even if there  
12 is a judicial warrant, there will not be an honoring  
13 of an ICE detainer. Which means that it's just  
14 important for the personnel to understand which  
15 offenses they should honor the detainer for. The  
16 list is in the legislation, and so it's a matter of  
17 ensuring that personnel know what that is and are  
18 able to cross-check for the criminal history within  
19 the timeframe set out by the legislation with the  
20 proper tolling periods. So there will be some  
21 additional training steps to implementation, but the  
22 important thing about the Intros is that they're very  
23 specific to which offenses, and I think that will  
24 help support implementation.

2 CHAIRPERSON MENCHACA: Great, thank you  
3 so much Council Member Eugene.

4 COUNCIL MEMBER EUGENE: Thank you. Thank  
5 you very much, and there's a--when we are trying, we  
6 are struggling to make sure that immigrant people are  
7 treated fairly, there are certain element that we  
8 should keep in mind, put on the table, the fact that  
9 immigrant people, they are facing many barriers, like  
10 language barriers, like cultural barriers, and some  
11 language assistance for people who don't, you know,  
12 English is not their primary language, what do you  
13 have in place? How do you help those people who  
14 don't speak English, who don't understand English  
15 property? Are you helping navigate and get the  
16 proper answer to their situation?

17 NISHA AGARWAL: I'm very glad that you  
18 brought that up. My office, the Mayor's Office of  
19 Immigrant Affairs along all of our agencies are  
20 deeply committed to language access and to ensuring  
21 that individuals who need it get the interpretation  
22 and translation services that they're entitled to  
23 under federal, state and local law. So we work  
24 closely with agencies to ensure that they have the  
25 tools and resources and best practices available to

2 ensure that those, those services are provided, and I  
3 know that certainly in the context of this  
4 legislation for the NYPD and the Department of  
5 Corrections and other agencies, we work with them as  
6 well in thinking through language access issues.

7 COUNCIL MEMBER EUGENE: Thank you very  
8 much. If you'll allow me the last one?

9 CHAIRPERSON MENCHACA: Last question.

10 COUNCIL MEMBER EUGENE: Yes, last  
11 question, but this is a very important one. Because  
12 so many people, you know, usually go to my office and  
13 meet them in this here also, when they have the  
14 family members in jail and they're in the list to be  
15 deported, usually they send them away, far away from  
16 New York City, away from their families, very far.  
17 And the parents cannot even see them. Some of them,  
18 they don't know where they are. This is a very tough  
19 situation, and some of it are a big financial or big  
20 burden, they try to pay to travel to go see them.  
21 What the Administration can do in this respect?  
22 Because I think this is a family issue that New York  
23 City as a tradition of United States has a philosophy  
24 or ideas to unite family, to keep family together,

2 what the Administration has been doing or can do to  
3 alleviate this burden on families?

4 MAYA WILEY: That is such an important  
5 point, and one that I think the Administration both  
6 recognizes and regrets. Unfortunately, if we were to  
7 honor detainer in an instance in which the  
8 legislation would permit the honoring of a detainer,  
9 once a person is detained then they are outside of  
10 the jurisdiction of the city because they're in  
11 federal custody and we actually have no control as a  
12 city where the federal government places people  
13 who've been detained. So, it's something that I  
14 think is frustrating. I will say personally, I find  
15 very frustrating that that's not something that's  
16 easy for the city to address, other than to raise the  
17 concerns. That's not something, obviously, that  
18 we've discussed in relationship to these Intros  
19 because it's outside of the scope of the Intros  
20 themselves, but I can only say that we think that's a  
21 humanitarian issue that deserves attention.

22 COUNCIL MEMBER EUGENE: Thank you very  
23 much. Thank you, Mr. Chair.

24 CHAIRPERSON MENCHACA: Thank you Council  
25 Member Eugene, and I just want to continue with that

2 sentiment that this continues to be a conversation as  
3 we work through post hearing. We're going to hear  
4 from advocates today. We're going to hear from Mr.  
5 Morgenthau very shortly, and so I just want to thank  
6 you for your work on this. This was a team effort in  
7 so many ways, but we'll continue to work through this  
8 new bill. And I want to clarify something that I  
9 think wasn't necessarily clear, that while the law is  
10 a lot more simple it actually decreases the ability  
11 for ICE to do what they want to do, which is as we've  
12 heard has been rot with many injustices, and so  
13 that's the kind of clarity around the simplification  
14 of this law that allows for the detainer to decrease  
15 the number of instances where judicial warrant and  
16 the list of violent serious crimes, felony crimes are  
17 going to be a shorter list, and that we limit the  
18 conversations between the Department of Corrections  
19 and ICE. These are all things that are going to make  
20 it harder for ICE to continue to do what we've seen  
21 as injustices. We're going to hear from the  
22 community now. Thank you so much, and we'll look  
23 forward to continuing the conversation. And next we  
24 want to bring up Mr. Robert Morgenthau, a long time  
25

2 advocate on this in so many ways, and so we can  
3 invite you over to the table.

4 ROBERT MORGENTHAU: Good morning.

5 CHAIRPERSON MENCHACA: Good morning.

6 When you're ready.

7 ROBERT MORGENTHAU: Thank you, Madam  
8 Speaker for giving me this opportunity to testify on  
9 this extremely and far sided legislation. I am  
10 Robert Morgenthau, a former District Attorney of New  
11 York County, former United States Attorney for the  
12 Southern District of New York, and now counsel to the  
13 law firm Wachtell, Lipton, Rosen & Katz. I have with  
14 me David Sall [sp?] who's an Associate of that firm,  
15 who's worked closely with me on many immigration  
16 matters. City Council should be congratulated on  
17 setting the national precedent by tackling this  
18 serious issue with far sided and well thought out  
19 legislation. I take great pride in the fact that our  
20 city and this council have long recognized that we  
21 should not be in the business of helping the US  
22 Department of Homeland Security deport and detain  
23 immigrants whose greatest crimes are misdemeanors or  
24 traffic violations or no crime at all. The current  
25 law already prohibits the police and corrections

2 officials from honoring federal immigration  
3 detainees, unless the target individual is either  
4 charged with or has been convicted of a felony or  
5 serious misdemeanor or appears on a terrorist watch  
6 list. However, a criminal charge is not as you all  
7 know the same thing as a conviction. According to  
8 statistics from the Office of Court Administration,  
9 40 percent of people arrested in New York City  
10 eventually have their cases dismissed. The city  
11 should not be handing over immigrants who have had  
12 criminal charges against them dropped or dismissed.  
13 In addition, a wide range of offenses qualified as  
14 felonies under Homeland Security's broad definition.  
15 The city must draw its own clear lines as this  
16 legislation does about what crimes are serious enough  
17 to justify detainees and eventual deportation. This  
18 legislation is the necessary and logical next step.  
19 By limiting the city's enforcement of federal  
20 immigration detainees to convicted violent felons and  
21 threats to national security, these bills would  
22 safeguard our city and our country while also  
23 protecting the rights of immigrants who came to this  
24 country seeking a better life and the American dream.  
25 Throughout the Obama Administration, the Federal

2 Government has been too aggressive in deporting  
3 people for minor violations. President Obama has  
4 repeatedly promised to deport only, and I quote  
5 "criminals" and I quote "gangbangers" whatever they  
6 are, but he has not followed through. Out of the  
7 370,000 people deported last year, a mere 12 percent  
8 have been convicted of a crime that even Immigration  
9 and Customs Enforcement considers to be serious. In  
10 fact, an analysis by a not for profit group at  
11 Syracuse University found that over 100,000 people  
12 were deported in 2013 for either minor traffic  
13 violations or illegal entry, which is a petty  
14 misdemeanor. More than 150,000 people deported last  
15 year have no criminal conviction at all. To achieve  
16 these deportation numbers, the Federal Government  
17 piggy backs [sic] off all arrests made by local and  
18 state authorities under a mandatory program called  
19 Secure Communities. Local law enforcement submits  
20 fingerprints of people they arrest to an FBI  
21 database, and the FBI automatically sends these  
22 fingerprints to Homeland Security. ICE then looks  
23 for noncitizens who can be deported through  
24 immigration or criminal violations. Through this  
25 policy, ICE, Immigration Customs Enforcement, has

2 already reviewed 32 million fingerprint records. New  
3 York State tried to opt out of Secure Communities,  
4 and 12,000 was denied, 2012 was denied. Once it  
5 identifies removable immigrants, ICE issues detainers  
6 which are requests to keep people in jail after their  
7 local charges have either been satisfied by dismissal  
8 or sentence served. So the Homeland Security has  
9 time to transfer these records, these men, directly,  
10 or women, into federal custody. These detainers are  
11 not limited to violent felonies or terrorists or  
12 gangbangers. Instead, Homeland Security uses the  
13 definition of convicted criminal that is so broad  
14 that it includes anyone who gets a speeding ticket  
15 and pays the fine. If that law applied to all United  
16 States citizens, all of us here would be, including  
17 me, would be convicted criminals. As a result, the  
18 city has previously turned over the ICE immigrants  
19 who were arrested for sleeping on the subway or  
20 drinking in public or arrested for speeding  
21 violations. Even worse, Homeland Security sometimes  
22 issues detainers against immigrants who have no  
23 criminal conviction at all. That is because the city  
24 has to submit fingerprints at the time of arrest,  
25 even if an immigrant is eventually never charged with

2 a crime or found not guilty. His fingerprints will  
3 already been in the database. It is likely that a  
4 signification portion of the 32 million people whose  
5 fingerprints have been reviewed by ICE do not have a  
6 criminal conviction, and there is no provision or  
7 process for purging people's records after charges  
8 have been dismissed. The city has a moral obligation  
9 to do everything it can to prevent its residents from  
10 being deported for trivial offenses. The city  
11 blindly agrees to Homeland Security's detainers or  
12 immigrant communities will never trust or cooperate  
13 with law enforcement and will be badly treated in the  
14 process. As I mentioned, city already blocks  
15 detainers against, except those issued against  
16 immigrants charged with or convicted of a felony or a  
17 serious misdemeanor. Local law enforcement may still  
18 be enforcing detainers against immigrants who were  
19 charged, but never convicted of any crimes.  
20 Furthermore, the felony category is broadly  
21 interpreted by Homeland Security and includes  
22 offenses that are not violent or otherwise egregious.  
23 Lawyers I have talked to estimate that the current  
24 law blocks only about one-third of all detainees.  
25 These bills close the gap in the current law, and

2 ensure that the city only enforces detainers against  
3 immigrants who have been found guilty of serious or  
4 violent felonies or who appear on terrorism watch  
5 lists. The bills define which crimes qualify as  
6 "serious or violent" felonies. The bill also provides  
7 an additional layer of protection for New York City  
8 immigrants with the requirement of Homeland Security  
9 obtained arrest warrants from a federal court before  
10 being issued. The violation of this legislation will  
11 guarantee that immigrants arrested for minor offenses  
12 will not be automatically turned over to Homeland  
13 Security for deportation. At the same time, it will  
14 allow local law enforcement to continue to work with  
15 Homeland Security to remove dangerous immigrants from  
16 our community. I urge the City Council to pass this  
17 far sided legislation. I would like also to take this  
18 opportunity to ask the Council to consider additional  
19 legislation to bar Homeland Security from keeping a  
20 mobile base manned by agents, last count 15 agents at  
21 Rikers Island, from entering city prisons and jails.  
22 Prison officials regularly furnish immigration agents  
23 with the names of all inmates who indicate on their  
24 questionnaire that they were born overseas. No other  
25 federal law enforcement agency camps out at Rikers.

2 Psychologically, the onsite presence of instill fear  
3 and paranoia among immigrants held at Rikers,  
4 practically being on hand gives agent the opportunity  
5 to interview immigrants in the absence of counsel.  
6 We have to get federal immigration agents out of  
7 Rikers and other local jails and prisons. Thank you  
8 very much for giving me the opportunity to testify.

9 CHAIRPERSON MENCHACA: Thank you so much  
10 Mr. Morgenthau, and your presence in this room with  
11 your testimony and your years of experience in  
12 career, it's such an honor for us to have you here  
13 today speaking on this, on this very topic and this  
14 moment in City Council and City Hall history. I want  
15 to underscore something you said, that a criminal  
16 charge is not the same thing as a conviction, and  
17 that couldn't be more true, and you really laid the  
18 case for the consequences of that statement. I  
19 respect the due process and our achieving the greater  
20 goal of constitutional rights for all our residents  
21 in our great city. I'm going to hand it over to  
22 Speaker Melissa Mark-Viverito.

23 SPEAKER MARK-VIVERITO: Hello, thank you,  
24 Mr. Morgenthau, because I think we've worked together  
25 on the prior bills and you have been such an

2 incredible voice on this issue for the need for  
3 comprehensive immigration reform and then taking it  
4 upon ourselves. Just for clarification, because you  
5 indicate in the last paragraph of your--I have some  
6 good news, I guess, for you. Thinking about the  
7 recommending that the Council consider additional  
8 legislation to bar Homeland Security from keeping a  
9 mobile base at Rikers. Intro 486 actually does that.  
10 So we are going to be limiting any sort of presence  
11 of ICE on Rikers, and that's what is in the language  
12 here. So I think we--that's been something that many  
13 of us have been wanting for a long time, and  
14 thankfully, again, we have an administration that is  
15 supportive of those efforts. So, I guess, just wanted  
16 to--

17 ROBERT MORGENTHAU: Well, I remember the  
18 cooperation of your interest when you were the  
19 sponsor of the original legislation.

20 SPEAKER MARK-VIVERITO: Yes.

21 ROBERT MORGENTHAU: Which passed, but we  
22 go to go beyond that now.

23 SPEAKER MARK-VIVERITO: Yes. Thank you  
24 very much, and appreciate your testimony. It's very  
25 impactful. Thank you so much.

ROBERT MORGENTHAU: Thank you.

CHAIRPERSON MENCHACA: We have a couple more questions for you. Mr. Morgenthau, if you could? One more question. I don't think anybody else has any more questions. But, I wanted to--

ROBERT MORGENTHAU: [interposing] I thought I was home free.

CHAIRPERSON MENCHACA: Thank you so much for your patience. I wanted to ask if you in reviewing not just what you just heard today, but in reviewing this new piece of legislation, how do you believe this is going to impact our local district attorneys having been part of the district attorney office in the past? How is this piece of legislation going to impact our local district attorneys?

ROBERT MORGENTHAU: Well, I think it's going to be helpful, because it means, you know, a lot of cases belong in the criminal justice system won't be there, but I mean, as you may know, I set up an immigrant justice group in the office to help immigrants who were wrongly charged with crimes, so I think it's positive from the standpoint of district attorneys.

2 CHAIRPERSON MENCHACA: Great. And like  
3 you said, the case load is going to go down, and this  
4 is going to be helpful with the district attorneys,  
5 and so we're hoping and we'll continue our own  
6 conversations with the current district attorneys and  
7 we'll welcome you back any day to talk on this issue.  
8 Thank you so much. So we're done with questions now.  
9 Thank you so much. We're going to invite the next  
10 panel. Thank you Mr. Morgenthau. And so the next  
11 panel we're going to have Mr. Peter Markowitz, Alisa  
12 Wellek, Daniel Coates, Jenny Alcaide, Donna  
13 Lieberman, and Lenore Freelander. If you can walk up  
14 to the table please. You're going to go first?  
15 Okay. Okay?

16 JENNY ALCAIDE: Thank you Speaker Mark-  
17 Viverito, Chairman Menchaca and to the rest of the  
18 committee for the opportunity to speak today. My  
19 name is Jenny Alcaide, and I am a law student. I'm  
20 here today on behalf of the Kathryn O. Greenberg  
21 Immigration Justice Clinic at Cardozo School of Law.  
22 My testimony will first provide a brief background in  
23 history of the legislation. Second, I will discuss  
24 the improvements the bills will make under the  
25 current discretion law and what makes these bills so

2 necessary. Immigration detainers are the primary  
3 mechanism by which thousands of New Yorkers are  
4 funneled into immigration detention each year.  
5 Detainers are merely pieces of paper drafted by low  
6 level federal ICE agents. They're request to local  
7 law enforcement agencies to hold people whom they  
8 already have in their custody for up to 48 additional  
9 hours beyond the time they would otherwise be  
10 released so that immigration authorities may place  
11 them into immigration detention to face deportation.  
12 In 2009, our clinic developed a concept of detainer  
13 discretion. Working with organizations like Make the  
14 Road New York and with Councilwoman from East Harlem  
15 named Melissa Mark-Viverito, the first elected  
16 official in the nation to push for a detainer  
17 discretion law. In 2011, New York City became one of  
18 the first jurisdictions in the nation to enact a  
19 detainer discretion law, and in 2013 the law was  
20 expanded even further. Because of that, today, over  
21 250 jurisdictions nationwide have detainer discretion  
22 policies, but we must remember that it all started  
23 here in New York City. While substantial success was  
24 achieved with the passage of the 2011 and 2013 laws,  
25 those bills still left a majority unprotected. So,

2 what improvements do the new bills make? The first  
3 improvement relates to the requirement of a judicial  
4 warrant. Under the current law, the city honors some  
5 ICE detainer requests even though recent court  
6 decisions make it clear that detainees alone are not  
7 sufficient authority for an arrest. The new bill  
8 requires ICE to provide a judicial warrant before the  
9 city will honor detainer to ensure individuals are  
10 not illegally arrested and protect the city from  
11 liability. The second significant improvement  
12 contained in these new bills related to the category  
13 of people New York City will hold for deportation.  
14 This bill recognizes that it's not in the city's best  
15 interest to hand over anyone for deportation unless  
16 that individual poses a significant threat to public  
17 safety. That is why the new bill permits the city to  
18 hold a person on a detainer only if he or she has  
19 been convicted of a serious or violent felony within  
20 the last five years or is on the terrorist watch  
21 list. This will significantly reduce the fear  
22 immigrants often feel in approaching police officers  
23 as victims and witnesses of crimes. The final  
24 significant improvement relates to ICE's physical  
25 presence on Rikers Island. For decades, ICE has

2 operated a permanent office rent free on Rikers  
3 Island. This has undermined community trust. The new  
4 bill prohibits Federal Immigration Authorities from  
5 keeping an office on DOC property. This bill will  
6 position New York City once again as a jurisdiction  
7 leading the way towards protecting the constitutional  
8 rights of its residents, building trust with  
9 immigrant communities and making us all safer.

10 CHAIRPERSON MENCHACA: Thank you Jenny,  
11 and thank you for persevering with this noise. This  
12 is construction that's happening. We've already sent  
13 a very strong message that they need to give us peace  
14 and quiet here. So, until that time, continue to  
15 persevere, and Daniel, we can have you. Thank you.

16 DANIEL COATES: Morning. Thank you for  
17 the opportunity to testify. My name is Daniel  
18 Coates. I'm the Lead Organizer at Make the Road New  
19 York, and on behalf of 15,000 members of Make the  
20 Road New York in the city and the state, I want to  
21 thank Speaker Melissa Mark-Viverito, Council Member  
22 Menchaca, Dromm, Espinal, the Administration, the  
23 Mayor and his team, and all of the members of the ICE  
24 Out of Rikers Coalition for getting us to this point  
25 today, almost five and half years after we launched a

2 campaign to end New York City's collaboration with  
3 ice. Get them out of Rikers Island and get New York  
4 City out of the deportation business. This  
5 legislation will draw a clear line between the local  
6 New York City authorities and immigration, protect  
7 immigrant families and put New York City back in the  
8 lead, at the cutting edge across the country in terms  
9 of immigrant protection. The idea that  
10 municipalities could use their discretion and not  
11 cooperate with an unjust federal deportation machine  
12 was in some ways born in New York City as we've  
13 mentioned, and we're really glad to have the  
14 opportunity to step back onto that cutting edge. At  
15 a time of cynicism about immigration in Washington,  
16 this is yet another example of how we can move the  
17 ball forward at a local level and it is additionally  
18 important for that reason. There are many stories  
19 like the ones we heard and will hear today, families  
20 that this law will protect. In addition to many  
21 people testifying today, I just want to highlight  
22 one, Cesard [sic], the US citizen young person who's  
23 a member of Make the Road was unable to be here. His  
24 father currently in Rikers Island was arrested during  
25 a fight after work a few weeks ago. Otherwise, were

2 it not for this current policy he would be back with  
3 his family, but he's in Rikers Island and will be  
4 transferred to immigration where he will have to  
5 fight a deportation. Cesard is working right now  
6 because as he said to me, he has to manage the money  
7 since his father is not around. After work, Cesard  
8 comes to Make the Road, makes phone calls to get  
9 people out to vote in the local elections, connects  
10 with other youth members, but has to worry about this  
11 as well. This is why we should pass the bill,  
12 because what it happening to Cesard's family should  
13 have nothing to do with the immigration system, and  
14 the fact that it does has devastating consequences.  
15 Thousands of families have stayed together because of  
16 the current detainer legislation that we do have on  
17 the books and thousands more will because of this  
18 one. Additionally, this proposal is strong because it  
19 takes into account what ICE could do in the future by  
20 not only requiring a judicial warrant to honor  
21 detainees, but also declaring under what limited  
22 situations the city would comply if ICE is able to  
23 produce a warrant, which I think is critical. This  
24 proposal will allow, will also improve all New York  
25 City residents' safety by helping to build trust with

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COMMITTEE OF IMMIGRATION

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2 immigrant communities. The value of this cannot be  
3 overstated. Many of our members look at the police  
4 and see the police as one of their last resorts, and  
5 it makes sense, given how much people often times  
6 risk by simply having a conversation with them. This  
7 bill will help change that calculation, and I'm proud  
8 to speak in support. Thank you.

9 CHAIRPERSON MENCHACA: Thank you, Mr.  
10 Coates.

11 ALISA WELLEK: Hi, my name is Alisa  
12 Wellek and I'm the Co-Executive Director of the  
13 Immigrant Defense Project. I first want to just  
14 thank the Speaker as well as Council Member Dromm,  
15 Chairman Menchaca, Council Member Espinal and all of  
16 the others on your committee for your leadership on  
17 this really important issue. We know that this issue  
18 of protecting New York City residents from mass  
19 deportation programs that tear apart families, wastes  
20 city resources, erode community trust and public  
21 safety, and perpetuates systems that deny equal  
22 justice and due process for all New Yorkers. IDP,  
23 where I work, works for fundamental fairness for all  
24 immigrants, and we really work with folks who are  
25 facing harsh and disproportionate consequences

2 because of their contact with the criminal justice  
3 system, so the very people that we're talking about  
4 today. We do this by serving as a legal resource and  
5 training center by engaging in advocacy and policy  
6 change and by building capacity of community based  
7 organizations. As part of this work, we take over  
8 2,000 calls on our hotline a year from directly  
9 impacted folks and their lawyers generally from  
10 people in this very situation where they're facing  
11 deportation. We also convene advocates across the  
12 city including immigration attorneys at all the city  
13 public defender offices and folks facing--advocates  
14 who are fighting against violence in their  
15 communities including domestic violence, trafficking  
16 and LGBTQ survivors of violence who are equally  
17 worried about his issue. Because of our mission and  
18 experiences, we're passionate about ending ICE's use  
19 of the criminal justice system to detain and deport  
20 immigrants. For my testimony I'm hoping to just give  
21 a little bit more context on some of the broader  
22 immigration landscape in which the Council's  
23 considering these bills. You've heard the compelling  
24 stories of some of the folks who've testified and the  
25 story that Daniel just told, and at IDP we hear

2 stories like this every day. There's stories of  
3 lawful permanent residents, asylum seekers, and  
4 undocumented people who've often lived in the country  
5 for decades and are now facing permanent exile and  
6 separation from their families. Few other legal  
7 systems, either criminal or civil, are as rigid and  
8 mechanical as our current immigration laws. An  
9 offense that disqualifies someone from getting legal  
10 status or from keeping their legal status lasts  
11 forever, even if it was a mistake that occurred years  
12 ago. By vastly expanding the number of crime that  
13 can trigger deportation and making deportation  
14 essentially a mandatory minimum for a wide range of  
15 offenses, these punitive immigration laws often  
16 impose punishments that are far disproportionate to  
17 any criminal sentence received, and they often deny  
18 people a fair day in court. For these non-citizens  
19 who will get ensnarled in the criminal justice  
20 system, one that we know disproportionately targets  
21 and convicts people of color, they face a double  
22 jeopardy. They serve a sentence, and then with few  
23 exceptions they get deported without and opportunity  
24 for a judge to ever even consider any other aspect of  
25 their lives, including how long they've been in the

2 country, whether they're a parent or even whether  
3 they're a veteran. The coupling of these laws with  
4 the increasingly massive and brutal deportation  
5 machine has resulted in untold devastation for New  
6 York's residents. And so I just want to take a second  
7 to say we shouldn't take for granted that this is how  
8 it's always been. This is a really kind of recent  
9 phenomenon. In the last 15 years, we've deported  
10 more people than the last 150 years of our history,  
11 and there's, you know, 18 billion dollars is going  
12 into this system and the city can really take a stand  
13 and is taking a stand on this legislation in fighting  
14 back against this enforcement regime and saying that  
15 New York City protects its residents. Thank you for  
16 your time.

17 CHAIRPERSON MENCHACA: Thank you so much,  
18 and we're going to go into that context with the Q &  
19 A, so thank you so much for setting that ground.

20 LENORE FRIEDLAENDER: Okay, good morning.  
21 We're used to speaking loud, so a little background  
22 noise doesn't bother us, for all the rallies and  
23 activities that many of us been involved in. Good  
24 morning, Chairperson Menchaca and members of the  
25 Council. My name is Lenore Friedlaender. I'm

2 Assistant to the President at SEIU, Local 32 BJ.

3 We're union in our 80 year history that has always

4 been open and welcoming to immigrants and people from

5 around the world wherever they were born and whatever

6 their status was, and represent cleaner, security

7 officers, workers in residential buildings, and

8 today, continue to stand with immigrant workers

9 working and others working at airports and

10 residential and commercial buildings in their fight

11 for justice, and many of you have supported us in

12 that effort. Our members come from many different

13 countries. We've identified at least 28 languages,

14 and I'm sure there's lots more. And so that, we have

15 that long history and tradition being part of that

16 and are committed to the fight to really making sure

17 that everybody's able to live the American dream, and

18 that there's respect for all workers and for work.

19 I'm here today very proud to be on the panel with a

20 number of partner organizations that have been active

21 in this supporting and strongly supporting Intro 46

22 and 47, both of which would go to a much needed step

23 further to ensure that local law enforcement

24 resources are not misspent on immigration enforcement

25 activities that target working people, undermine

2 community safety and violate individual's  
3 constitutional rights. We commend the Speaker for  
4 championing the previous policies that were  
5 referenced and to try to limit the city's  
6 participation in the misguided Federal Secure  
7 Communities Program. However, even with the limited  
8 participation, the Department of Corrections has  
9 complied with over 3,000 detainer requests between  
10 October 2012 and September 2013. The program is  
11 supposed to target individuals with serious criminal  
12 convictions, yet more than 75 percent of the  
13 individuals deported had not committed a serious  
14 offense, and many had no prior criminal record at  
15 all. And I think we heard some very compelling  
16 stories, and many of us hear stories every day about  
17 what the impact is on people's lives, on their  
18 communities, on their jobs, and something that we  
19 haven't heard about as much is how employers  
20 sometimes threaten workers that they will call  
21 immigration or call the police when the workers come  
22 together to demand improved conditions. And it has a  
23 very chilling effect, and it, you know, and takes  
24 away those worker's rights to stand up to make sure  
25 they're not a victim of wage theft, to organize with

2 the union, to make sure they're treated fairly and  
3 equally and not subject to discrimination or  
4 retaliation, and so these policies would go a long  
5 way to changing that perception. And so we want to  
6 commend you and the leadership for these bills, and  
7 look forward to their implementation and particularly  
8 in light of the inaction in Congress and the  
9 Republicans blocking comprehensive solution, which  
10 would--is really what we need to continue to advocate  
11 for. So thank you very much.

12 CHAIRPERSON MENCHACA: Thank you, Ms.  
13 Friedlaender.

14 DONNA LIEBERMAN: So many people are  
15 here. We have to play musical chairs. And it's  
16 wonderful to be here and to be on the same side with  
17 District Attorney Morgenthau and with what appears to  
18 be a vast majority of City Council, and thank you for  
19 your leadership. The legislation before us today  
20 promises to take New York City out of the business of  
21 immigration enforcement, finally, and thank you for  
22 moving this towards a reality, and moving us away--  
23 well, moving us towards closing one chapter in the  
24 tale of two cities, New York City style as we move  
25 away from the double standard of justice where

2 citizens are protected against detention that doesn't  
3 meet constitutional standards of probable cause, but  
4 all constitutional bets are off if you're an  
5 immigrant. The detainers are pitched by ICE and  
6 federal government as a public safety tool, but in  
7 fact, as we have heard today and we all know now, the  
8 vast majority of detainers are slapped onto low level  
9 offenders, and there is enormous collateral damage to  
10 the individuals and their families who suffer as a  
11 result incredible pain and hardship, but also to our  
12 public safety because it undermines the trust and the  
13 cooperation that's absolutely essential to effective  
14 law enforcement. It also comes at great cost, not to  
15 the feds, but to the city, and you know, we want to  
16 do everything to balance the budget. The good news  
17 for New York City and for the rest of the country, I  
18 think, is that the federal courts have finally  
19 acknowledged in a series of decisions that not only  
20 are detainers--not only are municipalities not  
21 required to honor detainers, but they could be liable  
22 for wrongful arrest if in fact they hold people by  
23 virtue of the detainers. So New York City is  
24 certainly doing the right thing, and the NYCLU wrote  
25 to sheriffs all around the state following some of

2 the federal court decisions, and 40 counties in New  
3 York State have also agreed to stop honoring the  
4 detainees. I was thrilled to see the Sheriff's  
5 Association citing the NYCLU as being on the right  
6 side of the law. I also want to comment, and I'm  
7 glad that Mr. Morgenthau did as well, it's about time  
8 that we evict ICE from Rikers. They don't need the  
9 office and the people who are detained there don't  
10 need the constant harassment and strong-arming and  
11 coercion that ICE as a presence at Rikers has  
12 provided the opportunity for far too often. Moving  
13 forward, it's really important that the  
14 implementation of this legislation and city policies  
15 with regard to immigrants and honoring warrants of  
16 detainees or pseudo warrants that they'll call  
17 warrants moving forward are monitored. The City  
18 Council has an important oversight role, and it's  
19 important that all city agencies comply with the  
20 spirit of this legislation, even agencies that we  
21 might not have realized would be, you know, possibly  
22 being asked to honor detainees. And the conversation  
23 about custodial arrests based on immigration hit is a  
24 really important one. It's time--that should not be  
25

2 an excuse, a pretext, or a reason for holding  
3 somebody in detention when the charge isn't.

4 CHAIRPERSON MENCHACA: Thank you so much  
5 for that testimony, again, and you know, I think  
6 we're all very excited to be on this side and  
7 realigning each of these agencies with the commitment  
8 that we're making to the constitution itself. And so  
9 the first question I have, this is for Daniel Coates  
10 from Make the Road. We want to get a sense, because  
11 we haven't heard the numbers of people necessarily on  
12 what we're dealing with here, and can you provide the  
13 estimate number of individuals we see arrested on a  
14 day to day basis for this misdemeanor infraction  
15 offenses who end up in immigration, essentially in  
16 immigration hold? What's the population we're  
17 dealing with here?

18 DANIEL COATES: The--so I'm not totally  
19 sure I understand your question. What I'm--

20 CHAIRPERSON MENCHACA: [interposing] So,  
21 how many lives are we affecting with this--

22 DANIEL COATES: [interposing] Sure.

23 CHAIRPERSON MENCHACA: law, and  
24 specifically how many--and I think we kind of heard  
25 that this is a recent phenomenon, and the increase in

2 number of people who are detained and deported. For  
3 New York City, bring us back to New York City a  
4 little bit, how--what population number are we  
5 dealing with here?

6 DANIEL COATES: So, the current law that  
7 we have on the books that we passed a couple of years  
8 ago is stopping about 30 percent to 35 percent of all  
9 detainer requests that the city receives. This  
10 results in approximately 1,000 people not being  
11 turned over to immigration for deportation  
12 proceedings every single year. However, that means  
13 that 2,000 people are turned over, and you know, they  
14 fit a variety of reasons that that's the case. This  
15 current proposal would drastically, drastically, you  
16 know, lessen that number. I'm sorry, increase the  
17 number of people who are protected. And here, you  
18 know, we're not just talking about, you know, 1,000  
19 or 3,000, you know, because as everybody who's talked  
20 about it today, like people have families. People  
21 have jobs. You know, so we're actually talking  
22 about, you know, entire communities here. So, in  
23 that sense I think the impact is much deeper and more  
24 profound. I don't know if--other folks on that.

2 CHAIRPERSON MENCHACA: No, no, thank you.  
3 Thank you for that. And I think that's the picture  
4 we're trying to paint here is we're not just dealing  
5 with this one person being detained. We're dealing  
6 with families and we're dealing with communities that  
7 are being destabilized. Mr. Markowitz, can you share  
8 with us your thoughts on the Administration's  
9 response to our question regarding the use of NCIC  
10 database. I don't know if you caught that?

11 PETER MARKOWITZ: Thank you, absolutely.  
12 Thank you for having me here, Chairman, and the rest  
13 of the committee. And first I'm going to say how  
14 excited I am about yours, the Speaker's, all of your  
15 support for this legislation as well as the  
16 Administration's support for this legislation. It's  
17 been a very team effort. So I was very happy to hear  
18 from the Administration that they take seriously the  
19 constitutional issues that are raised when NYPD  
20 officers take people into custody based on civil and  
21 CIC hits, and it was very heartening to hear that  
22 they're moving towards a new policy to address that,  
23 and so the bottom line is I was very excited to hear  
24 those statements from the Administration. There was  
25 something that was said by the Administration, I

2 think, which we should correct publicly. I understand  
3 from the Administration's testimony that it is the  
4 policy of the NYPD when there's a warrant hit on NCIC  
5 to take somebody into custody. The civil immigration  
6 hits on NCIC are not warrants. They are requests  
7 that local law enforcement reach out to ICE and make  
8 an inquiry as to whether this person is subject to  
9 arrest. The fact that New York City police department  
10 is currently treating these as warrants and taking  
11 people into custody simply because of this  
12 notification seems to raise serious legal issues. It  
13 sounds like serious legal issues that the  
14 Administration is committed to addressing and I'm  
15 very happy to hear that.

16 CHAIRPERSON MENCHACA: Thank you. Thank  
17 you for that. And we're going to continue to just  
18 walk through that and clarify that as much as  
19 possible as we walk through the legal process, the  
20 legislative process. And then my final question  
21 before I hand it over to my colleagues, this is for  
22 Ms. Friedlaender from 32BJ. Something that I'm  
23 definitely dealing on the ground in Sunset Park and  
24 we're dealing with in a lot of ways are these  
25 worker's rights issues and the environment that our

2 immigrant population is in right now with some of  
3 these workers, and I'm glad you mentioned kind of bad  
4 actor employers. How, you know, in specific, in any  
5 way you can specifically describe for us how this law  
6 particularly helps us do our work and if there's  
7 anything that you were already in plans for post,  
8 kind of post world in this 486, 487 passing in the  
9 City, and how we can help you kind of work on that  
10 particular issue of the threats that these bad actor  
11 employers are creating for our workers.

12 LENOORE FRIEDLAENDER: Sure. I think  
13 sometimes in organizing campaigns police get called  
14 or when workers come forward to go to the regulatory  
15 agencies, they are very--we deal with incredible  
16 amount of fear when people go to regulatory agencies  
17 that their name, their information will be shared and  
18 when they go to the labor board or they go to wage an  
19 hour, they go to EEOC, or they even come to City  
20 Council to testify, that somehow if they have to give  
21 their name and sometimes their social security number  
22 that it will get run through the system and something  
23 will happen. And so any interaction with city  
24 agencies, any interaction with police people are  
25 fearful and so the noncooperation with ICE, the you

2 know, being able to--and we sometimes due civil  
3 disobedience, and so people get arrested, or  
4 participate, and so limits people's ability to  
5 participate because of fear that they will be held  
6 and deported or their name and information will be  
7 shared and then, you know, there will be consequences  
8 for them. So it has an incredible chilling effect.  
9 So any attempts to reduce the ability to share names,  
10 to make it less likely that the police will be  
11 deputized to function as immigration enforcement  
12 agents or be part of the immigration system rather  
13 than deal with the regular law enforcement stuff  
14 makes an incredible difference for workers that we  
15 represent as well as those who are seeking to address  
16 their issues and have their rights enforced, because  
17 they are, undocumented workers are covered by the--to  
18 the degree we have labor laws and protections.  
19 They're covered.

20 CHAIRPERSON MENCHACA: Well, thank you  
21 again for organizing our immigrant workers. And now  
22 we're going to hear from Council Member Dromm.

23 COUNCIL MEMBER DROMM: Thank you. You  
24 may know that I've been working on the overall issue  
25 of Rikers and reform on Rikers Island as well, and

2 one of the things that I do continually hear is that  
3 in order to really effect the culture of violence  
4 that exists on Rikers is to reduce the number of  
5 people who actually are on Rikers. And it seems like  
6 a side benefit of this legislation may be in fact to  
7 help reduce that number. And it's just, especially  
8 if we're talking 3,000 people a year who fall into  
9 this category. That seems to be a significant number  
10 of people. I'm wondering if there's also a cost issue  
11 here. Will we be saving money? Will the city be  
12 saving money? Mr. Markowitz, I know, you know, a  
13 couple of years ago when we did the original  
14 legislation there was some consideration around that  
15 as well. Do you have any idea what that would look  
16 like with this legislation?

17 PETER MARKOWITZ: Yes, thank you, and  
18 thank you Council Member Dromm for your leadership on  
19 this issue over many, many years. Yes, so with  
20 approximately 3,000 detainees being issued per year  
21 on Rikers Island, we know from a report by the  
22 Justice Strategies Institute that each detainer  
23 causes an additional on average 73 days of detention.  
24 So that's 3,000 people, 73 days more each. We also  
25 know from the Department of Corrections last go

2 around in 2013, they told us that the marginal cost  
3 per day per inmate is in the range of 70 dollars per  
4 day. So when you look at 70 dollars per day for  
5 3,000 people for 73 extra days, we're talking about  
6 over 10 million dollars per year that the city right  
7 now is subsidizing the federal government's  
8 deportation efforts, and virtually all of that will  
9 be eliminated by this bill. And that only kind of is  
10 one element of the cost savings. When we talk about  
11 bread winners being ripped away from their families,  
12 we know that families which were previously self-  
13 sufficient become relying on city safety net  
14 services. We know that people who with detainees  
15 can't take advantage of much more effective and much  
16 cheaper alternative to incarceration programs. So  
17 there's a whole bundle of cost-savings here for the  
18 federal gov--excuse me, for the City of New York to  
19 say nothing of the protection against liability.

20 CHAIRPERSON DROMM: Thank you. I just  
21 wanted to know that and remember that because I just  
22 think it's an important piece of what it is that  
23 we're talking about today. Thank you.

24 CHAIRPERSON MENCHACA: Council Member  
25 Espinal?

2 COUNCIL MEMBER ESPINAL: Thank you. I  
3 just want to thank you guys for all the work you do.  
4 I don't think--I believe that you guys help out a  
5 tremendous amount of families who are really in need  
6 and really don't know what their rights are and  
7 thanks to your advocacy, a lot of these people who  
8 see the protection they need and deserve. This is  
9 actually one of those issues that motivated me to run  
10 for public office. So, it's really an honor to be  
11 here and working with my colleagues and you guys on  
12 this issue. I'd like to talk about--do you think  
13 that there's something that maybe we can, district  
14 attorneys can do to kind of flag people who are at  
15 risk of being detained by ICE before they get into  
16 city jails?

17 ALISA WELLEK: Sure. So, we at IDP work  
18 with the public defender offices across the city and  
19 often with the district attorney's offices too.  
20 There was a Supreme Court case in 2010, Padilla  
21 versus Kentucky that said that it's part of, you  
22 know, everyone's right, the 6<sup>th</sup> amendment right to  
23 counsel that if you're an immigrant, you should  
24 receive advice about the really devastating  
25 consequences of a potential plea. And part of that

2 decision really talked about district attorney's  
3 duties as well to negotiate a plea. And I think we  
4 can really push our DA office to take into  
5 consideration the potential immigration consequences,  
6 and very often there is a way to protect someone's  
7 immigration status or leave them eligible to get  
8 status in the future if the DA and the public  
9 defender, you know, both agree upon it. Similarly  
10 with alternative to incarceration programs, you know,  
11 we've constantly seen defenders fighting to get their  
12 immigrant clients into say a drug treatment program  
13 and they can't go into that program often because of  
14 a detainer. So now that the detainer won't be the  
15 issue because of this legislation. We need DA's to  
16 get on board and really start offering these  
17 programs, and specifically diversion programs where  
18 they don't have to plea up front. So there's a  
19 provision in the CPL where they can do that, and  
20 because of this weird definition in immigration law  
21 of a conviction, it's different than the definition  
22 under state law. So even if someone's plea is  
23 vacated, so you do--you plead up front. You do drug  
24 treatment. Your plea is vacated under New York Law,  
25 you have no criminal conviction. Under immigration

2 law, you still have a criminal conviction, and so we  
3 need DA's and judges to really start consenting to  
4 allow people into treatment programs without pleading  
5 up front, because that's really going to ruin any  
6 possibility they have to maintain status or get  
7 status in the future.

8 DONNA LIEBERMAN: I think there's two  
9 other points. One is that actually, and this is the  
10 NYCLU saying it, some DA's have complained to us that  
11 their prosecutions have been interrupted by ICE  
12 detainees that result in shipping people out for  
13 deportation to jurisdictions way beyond New York  
14 City, and so that they can't do their job adequately  
15 because ICE gets in the way. But the other point I  
16 want to make, and this is a little bit more  
17 tangential, but I think germane, which is that just  
18 as we were just told that, you know, what's not a  
19 conviction for New York City purposes may well be a  
20 conviction for immigration purposes. One of the un--  
21 one of the hidden secrets of the NYPD's broken  
22 windows policing approach is the immigration  
23 consequences. Nobody has tracked those consequences,  
24 but those remaining 2,000 individuals who've been  
25 subject to detainers and who have been thrown into,

2 many of whom been thrown into deportation proceedings  
3 as a result of the NYPD crackdown on marijuana  
4 smoking by people of color, not by white people, the  
5 collateral immigration consequences are huge. There  
6 is no discretion under our immigration law not to  
7 deport somebody who has two convictions, and putting  
8 ICE into the picture early on so that they can do  
9 their dirty works is not what we want to be about.  
10 So, we need to really look at the police department's  
11 role in making New York City actually inhospitable to  
12 immigrants.

13 CHAIRPERSON MENCHACA: Thank you Council  
14 Member Espinal. We're going to end this panel. I  
15 want to thank each and every one of you for your  
16 continued work. This has been many years in the  
17 making with so many of the Council Members here on  
18 the ground. Thank you so much. And Ms. Emily  
19 Tucker, if we can have you--Emily Tucker from Center  
20 of Popular Democracy, we can have you at the table.  
21 We're going to be moving into a panel with a  
22 conference call component, no stranger to the  
23 immigration committee. And so I want all the Council  
24 Members here just, Council Member Dromm and I, to--  
25 we're going to listen to Ms. Tucker speak about the

2 three members on the call, Commissioner Jesus Garcia  
3 from the Cook County Board of Commissioners, whose  
4 past detainer policies covering Chicago and all of  
5 Cook County, City Council Latoya Cantrell from New  
6 Orleans, and then King County Council Member Larry  
7 Gossett who sponsored the detainer legislation that  
8 covers Seattle and King County. And so Ms. Emily  
9 Tucker will review all of those profiles first and  
10 then we're going to go right into Q & A with a  
11 conference call component. They're going to be  
12 listening to your introduction so that they won't  
13 have an introduction, and then we'll--when we ask  
14 questions, address each question to the person that  
15 we want to answer. So every question will have a  
16 directed person. Okay?

17 EMILY TUCKER: Great.

18 CHAIRPERSON MENCHACA: Thank you, Ms.  
19 Tucker.

20 EMILY TUCKER: Thanks to the council and  
21 the committee and to the Speaker for this really  
22 exciting legislation, and I'm very excited to be here  
23 today. My name is Emily Tucker. I'm a staff attorney  
24 at the Center for Popular Democracy in Brooklyn.  
25 We're a national organization working on issues of

2 immigrant rights and racial and economic justice. We  
3 partner with grassroots groups across the country to  
4 create paths and implement progressive state and  
5 local policy changes, and one of my primary roles at  
6 CPD has been to support local campaigns to stop  
7 collaboration between police and federal immigration  
8 authorities here in New York and also elsewhere  
9 around the country. When New York first passed the  
10 first version of this legislation it was new  
11 territory. There were only a handful of  
12 jurisdictions that limited compliance with  
13 immigration detainees and New York was a leader and  
14 an innovator in the burgeoning movement to use local  
15 power to protect communities from the overreach of  
16 harsh federal immigration enforcement and to protect  
17 families from being separated by detention and  
18 deportation. As we sit here today there are over 250  
19 jurisdictions that limit compliance with ICE  
20 detainees, including many that do not have any  
21 particular history of pro-immigrant activism, and of  
22 those 250, more than 100 have stopped honoring any  
23 detainees at all. It's also worth noting that  
24 there's a growing trend towards avoiding drafting  
25 these policies in a way that discriminates on the

2 basis of old criminal convictions for which  
3 individuals have in all cases already served their  
4 time. So various localities have taken different  
5 approaches to limiting detainer discretion depending  
6 on the different on the ground circumstance and  
7 political realities and there's now a depth of  
8 expertise on this issue among local legislators that  
9 did not exist when New York first addressed the  
10 issue. So we're very lucky to have with us by phone  
11 today three policy makers who have been leading on  
12 detainer discretion to share their experiences and  
13 perspectives and the details of the policies they  
14 worked on. We have Commissioner Garcia from the Cook  
15 County Board of Commissioners in Chicago, New Orleans  
16 City Council Member Latoya Cantrell, and Metropolitan  
17 King County Council Member Larry Gossett in Seattle.  
18 So I'm actually going to start with New Orleans  
19 because I hear that Council Member Cantrell actually  
20 has to step out shortly. Council Member Cantrell,  
21 can you hear me?

22 LATOYA CANTRELL: Yes.

23 EMILY TUCKER: Great. So, if you want to  
24 talk briefly about the New Orleans policy. I know  
25 that your policy has only a short list of six

2 extremely serious offenses for which detainees will  
3 be complied with and also completely excludes ICE  
4 from the local jail. I'm just wondering have these  
5 strict limitations posed any problems for law  
6 enforcement either in carrying out their regular  
7 investigative and policing work in maintaining smooth  
8 and effective relationships with other federal  
9 agencies.

10 LATOYA CANTRELL: We are still working  
11 with the New Orleans Police Department, because there  
12 are still a number of arrests [sic] and detentions  
13 that we feel are unnecessary, but the ICE hold  
14 resolution that we created did end the indefinite  
15 detention that was taking place until we pushed the  
16 Sheriff to reconsider his policy. So, we are still  
17 experiencing a number of arrests and need to focus  
18 more on the police than we have been, but in terms of  
19 the issues in the jails that has been rectified by  
20 the change in policy.

21 CHAIRPERSON MENCHACA: Thank you, Council  
22 Member Latoya Cantrell for joining us today in your  
23 via conference call. You know, I wanted to talk a  
24 little bit more about that policy and that, I guess,  
25 essentially self-regulation, and if you can kind of

2 share with us the relationship that you have with the  
3 law enforcement and be a little bit more specific  
4 about the kind of push back, and then also what  
5 you've been able to do kind of post-enforcement of  
6 the pieces of legislation with community response,  
7 community engagement, and really bringing this back to  
8 the community.

9 LATOYA CANTRELL: Okay, when we offered  
10 the resolution in May 2013 with--which I worked on  
11 with my colleague, we were unable to pass legislation  
12 that was binding, so what we did was we created a  
13 resolution. And because Council has the fiscal  
14 authority, we focused a lot on the cost to New  
15 Orleans of indefinite detention, and in New Orleans  
16 we have relatively low cost, but we also have a  
17 relatively low budget. And so we asked the Sheriff  
18 in the resolution to go back and review his policy  
19 and that if he decided to continue with the policy of  
20 indefinite detention, that he would need to figure,  
21 explain to us how he was going to cover those costs  
22 without burdening New Orleans tax payers. And you  
23 probably realized this, but our Sheriff is under a  
24 number of pressures, and so he felt like this was an  
25 easy one for him to comply with. So even though it

2 was not a binding piece of legislation, he came back  
3 with a very progressive policy of not holding people  
4 in jail who he determined didn't have papers. We  
5 have been working all along with the Congress for Day  
6 Laborers on, and worked with them on the policy and  
7 have been out to meet with them several times to talk  
8 to them about how things are working out, and they  
9 have been bringing issues back to us about people now  
10 having, who are arrested, having to wear ankle  
11 bracelets, and I think this is the substitute policy  
12 for holding them in jail indefinitely. So, we are  
13 now trying to figure out how to work directly with  
14 the police, so that they don't take that kind of an  
15 action. We are right now have been in a--we lost our  
16 old Police Chief, and we're in an interim position.  
17 The new Police Chief was hired this morning as a full  
18 time, so this is going to be an issue we're going to  
19 take up with the police department directly.

20 CHAIRPERSON MENCHACA: Thank you, Council  
21 Member. That's all the questions that we have for  
22 you this morning.

23 EMILY TUCKER: Thank you Council Member.

24

25

2 LATOYA CANTRELL: Okay, well thank you so  
3 much for the opportunity, and let us know if we can  
4 be of further assistance.

5 CHAIRPERSON MENCHACA: Thank you.

6 EMILY TUCKER: Commissioner Garcia, are  
7 you there?

8 JESUS GARCIA: Good morning, yes I am.

9 EMILY TUCKER: Good morning. Thank you  
10 for joining us. So yours was one of the first  
11 detainer discretion policies in the nation and  
12 remains one of the most protective. Can you speak a  
13 bit about implementation and about the thinking  
14 behind the reimbursement requirement?

15 JESUS GARCIA: Gladly. So, on September  
16 7<sup>th</sup> of 2011 the Cook County Board of Commissioners  
17 with the strong support of our Board President Toni  
18 Preckwinkle enacted an ordinance that re-wrote the  
19 county's response to ICE detainees. It was costing  
20 us 143 dollars per day for holding people. We had  
21 concerns about cost, but also real concerns about the  
22 constitutional violation of holding people without a  
23 probable cause and due process. The provisions of the  
24 ordinance are permitted reimbursement by ICE to the  
25 County, but they never took us up on that offer to

2 engage in a conversation about the ICE picking up the  
3 cost. They only came to us after we adopted the  
4 ordinance. The ordinance, as you may know, was the  
5 first of its kind in that it ceased to honor any ICE  
6 detainer request except where they had a criminal  
7 warrant in order to pursue someone who was in our  
8 custody. The implementation has gone very smoothly.  
9 We do not allow ICE in our facilities at the county  
10 jail. The county jail, by the way, is in my  
11 district. That is why the issue was first brought to  
12 me by immigration rights advocates. The opponents of  
13 the ordinance claimed that rampant crime and risk to  
14 county residents would occur if we adopted the  
15 ordinance. Nothing to that effect has happened. No  
16 surge in undocumented immigrant violence. As a  
17 matter of fact, when we conducted an analysis after  
18 the first 14 months since the ordinance was in place,  
19 we determined in a case of about 850 detainer  
20 requests which were not honored, that immigrants are  
21 more likely to appear in court after being released  
22 on bond, that ICE detainer eligible inmates are more  
23 likely to be released on bond, which means that they  
24 are less dangerous than the citizen population or  
25 those who are not undocumented. Almost 10 percent of

2 ICE detainer eligible inmates raised significant  
3 constitutional liability issues that people had  
4 citizenship and we had even detained and held people  
5 who were US citizens and members, veterans of the US  
6 Armed Forces. So, my point being that after two  
7 years, there has not been one notable incident of  
8 crime that has occurred due to our policy. More  
9 recently, as of like a month ago, over 200 counties,  
10 localities and state had adopted legislation similar  
11 to ours. Currently, in Illinois, an Illinois Trust  
12 Act is being considered. It is already past the  
13 state senate, and we're hoping that it will be  
14 considered and approved in the House of  
15 Representatives in the next couple of months. Thank  
16 you very much.

17 CHAIRPERSON MENCHACA: Thank you, so much  
18 Commissioner Garcia, and again, just we're honored to  
19 have your testimony today. The probably the most  
20 curious component of the work you're doing is related  
21 to the reimbursement questions and the work you're  
22 doing to really illuminate the cost that this has on  
23 the city municipalities and the counties. Can you  
24 tell us any--and we heard a little bit about the push  
25 back and them, the federal government, not having

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2 that conversation with you. What's, you know, as of  
3 date today, how are you continuing to kind of pursue  
4 the cost question around the, I think it was 143  
5 dollars per day that it costs?

6 JESUS GARCIA: Correct, yes. As we ceased  
7 honoring ICE detainer requests, but for instances  
8 where there is a warrant for someone to be held and  
9 turned over to ICE authorities, there is really no  
10 cost to the county. So we are not pursuing any  
11 reimbursement. The policy seems to be a very sound  
12 one. It is upholding constitutional principles.  
13 Courts all over the land have upheld that what we're  
14 doing is constitutional, so we really don't have a  
15 problem at the present time. We have not suffered any  
16 loss of any federal funding as was threatened and  
17 insinuated during the debate around ICE detainer  
18 policy. So, everything has continued fairly normal  
19 in Cook County. And we have worked with many other  
20 localities who have sought to emulate our  
21 legislation.

22 CHAIRPERSON MENCHACA: Well, again, thank  
23 you so much for continuing ot inspire the country and  
24 other counties, and even New York City as we move to  
25 kind of bring this standard across every

2 municipality. Thank you so much for your time this  
3 morning.

4 JESUS GARCIA: Thank you, and I'm honored  
5 to be able to share this with the New York City  
6 Council.

7 CHAIRPERSON MENCHACA: Thank you.

8 JESUS GARCIA: Thank you.

9 EMILY TUCKER: Thank you, Commissioner  
10 Garcia. Moving onto Council Member Larry Gossett in  
11 King County. Are you there?

12 LARRY GOSSETT: Yes, I am.

13 EMILY TUCKER: Thank you so much for  
14 joining us this morning. So I know Seattle has had a  
15 couple of different iterations of a detainer  
16 discretion policy. Can you talk a little bit about  
17 what prompted the most recent revision of the policy  
18 and specifically about the warrant requirement and  
19 why it is that your policy requires that the warrant  
20 before a new criminal violation.

21 LARRY GOSSETT: Thank you very much.  
22 First of all, I'd like to say that Seattle is one of  
23 39 cities that we on the County Council represent,  
24 and I'd like to indicate to my colleagues on the New  
25 York City Council that we are very proud of the fact

2 that ours is only county, geographic jurisdiction, in  
3 the world named after Martin Luther King, Junior. So  
4 I'm from King County, and we have about two million  
5 people. Now, two--the centesis [sic] of your  
6 question, we passed arrest [sic] ordinance in  
7 December of 2013, and then we updated it September  
8 2<sup>nd</sup>, 2014, just a couple of months ago. And the  
9 reason we did that is because three federal judges in  
10 our region, two in Oregon and one in Idaho, ruled and  
11 one of the speakers a little earlier talked about  
12 concerns that many judges have about whether or not  
13 the constitution is being violated by holding people  
14 who had not been subject to any kind of due process,  
15 and they ruled that a couple women and a couple men  
16 had to be immediately let out of jail. On our first  
17 ordinance that we past in December of 2013, we were  
18 only able to get it passed with both democratic and  
19 republican support by allowing ICE to still get  
20 people who had committed, alleged to have been  
21 committed violent crimes, so all our three strike  
22 laws were still on there. Now, those are gone, and  
23 we only allow people out of the King County. ICE  
24 detained people out of the King County jail if a  
25 federal judge has issued a criminal warrant for them.

2 ICE has never, since we passed our first legislation,  
3 been willing to do the work necessary to make any  
4 civil requests on their own for the release to them  
5 any persons. So in fact, since December of 2013 we've  
6 not had one person. And like the other speakers,  
7 nobody had--the crime rate has not gone up because  
8 we have these people. Matter of fact, University of  
9 Washington professors have done studies to show that  
10 about 73 percent of everybody we were holding in the-  
11 -excuse me. Of the 900 people we were letting go  
12 each year, about 73 percent of them had only minor  
13 misdemeanor holds or they weren't guilty of any  
14 crime. So that was a growing concern of many of us  
15 elected officials. Thank you.

16 CHAIRPERSON MENCHACA: Thank you so much  
17 Council Member. And we're very honored for you to be  
18 part of our legislative public hearing here today in  
19 New York City, and we will continue converstaoins  
20 with you, and it just sounds like there are so many  
21 parallels happening across the country and the work  
22 that's happening in each of these cities and  
23 counties, and so we just want to say thank you for  
24 your work and that you're not alone, and we are

2 pursuing a very similar and comprehensive legislative  
3 package.

4 LARRY GOSSETT: Great.

5 CHAIRPERSON MENCHACA: And so I just want  
6 to say thank you so much on behalf of the Immigration  
7 Committee and the Speaker of the City Council. Thank  
8 you so much.

9 LARRY GOSSETT: Thank you very much, and  
10 we're one of those that took our inspiration from  
11 Cook County 2011 decision too. Appreciate the time.

12 CHAIRPERSON MENCHACA: Thank you. I  
13 appreciate your time, too.

14 LARRY GOSSETT: Bye.

15 CHAIRPERSON MENCHACA: Goodbye. Okay,  
16 thank you so much to Ms. Tucker for facilitating this  
17 conversation, and I just couldn't be more thankful  
18 for that work that is happening across the country  
19 that can really be heard here in New York City. And  
20 our next panel is comprised of Ms. Genia Blaser from  
21 the Bronx Defenders, Gavino Hernandez [sp?], Make the  
22 Road, Jasmine Rodriguez from the Brooklyn Defenders  
23 Services, Marie Mark from the Brooklyn Defender  
24 Services. If you can all come over to the table, and  
25 you can begin as soon as you get there. Make sure

2 that the red light is on and you're speaking directly  
3 into the mic. And the next panel, so that you're  
4 ready so that we can move this quickly, the next  
5 panel after this will be Abraham Paulos from Families  
6 For Freedom, Marissa Ram from Safe Horizon, Joseph  
7 Rosenberg from the Catholic Community Relations  
8 Council, Farrin Anello from the New York City Bar  
9 Association, and then Cynthia Cook from the Legal Aid  
10 Society. That'll be the panel after this. Okay,  
11 you'll have three minutes. If we can start over here  
12 on the right. You can go ahead right in, jump into  
13 your testimony and make sure the red light is on and  
14 the mic is close to your mouth.

15 GENIA BLASER: Good afternoon. Thank you  
16 for the opportunity to testify this afternoon about  
17 Intros 486 and 487. My name is Genia Blaser, and I'm  
18 a Staff Attorney with the Bronx Defenders. We're a  
19 holistic community based--

20 CHAIRPERSON MENCHACA: [interposing] Can  
21 you get the mic closer to you? Just if you can, a  
22 little bit closer. Thank you.

23 GENIA BLASER: My name is Genia Blaser,  
24 and I'm the Staff Attorney with the Bronx Defenders.  
25 We're a holistic community based public defense

2 office and provide criminal, civil, and family  
3 services to residents of the borough. Because of  
4 this, we're in a unique position to witness firsthand  
5 the current detainer policy at play. And while the  
6 current policy has been a crucial and important first  
7 step, it's too narrow, and has left out too many non-  
8 citizen New Yorkers from its protections. We've  
9 heard many examples today. I just want to give one  
10 more example of a client of mine to demonstrate the  
11 narrowness of the current policy. My client Jose was  
12 arrested after his school-aged son swiped him into  
13 the subway using his student metro card. Jose had  
14 never been arrested before, but he had an old  
15 deportation order from 20 years ago, from when he  
16 first came to the United States from Ecuador.  
17 Because of his old deportation order, immigration  
18 lodged the detainer, and Jose had to decide whether  
19 he would sit at Rikers with the detainer while we  
20 explored options and requested his immigration file,  
21 which could take months, or if he would pay bail, be  
22 released to ICE and be deported. Jose had a family  
23 here. He had two school-aged sons. He worked and he  
24 was the family's bread winner. Initially, he waited  
25 at Rikers for a few weeks waiting for the immigration

2 file which never came. His family was suffering until  
3 Jose decided to resolve his criminal case and be  
4 deported. His criminal case was dismissed. Jose was  
5 released to ICE and he was deported. This is just one  
6 example of many, and there are more that I included  
7 in my written testimony of how the current detainer  
8 policy is too narrow and causes unequal treatment for  
9 non-citizens in the criminal process. Most of our  
10 clients who are noncitizens are forced to choose  
11 between prioritizing their criminal or their  
12 immigration matters. Many noncitizens with  
13 detainers, as we've heard, are often held in a low  
14 bail for weeks or months, sometimes years in the  
15 Department of Correction's custody regardless of the  
16 severity of their charges. Because if they paid bail  
17 where their charges are still pending, they'll be  
18 released to ICE and face deportation. This slows  
19 down the criminal process in an already back-logged  
20 and overburdened system. Similarly, our noncitizen  
21 clients with priority deportation orders like Jose or  
22 prior criminal convictions will be released to ICE  
23 regardless of the outcome of their criminal cases.  
24 This means they can choose to sit in DOC custody and  
25 try to fight their cases, but regardless of the

2 outcome, they will be released to ICE. Our clients  
3 are also unable to access pre-trial programs or  
4 treatment because of the detainers. Release to these  
5 programs will mean release to ICE. And lastly, our  
6 clients with mental illness are stuck at Rikers in a  
7 system that is inadequately equipped to provide  
8 treatment as recent articles and reports have shown.  
9 Clients cannot be released for medical treatment  
10 during their case because they would be released to  
11 ICE. The new bills that are being introduced address  
12 many, although not all of these concerns, and it will  
13 allow noncitizen New Yorkers more equal treatment in  
14 the criminal justice process. They'll have the  
15 opportunity to be released to their families and  
16 communities and to fight their criminal cases without  
17 the fear of being released to ICE. Thank you.

18 CHAIRPERSON MENCHACA: Thank you.

19 MARIE MARK: Good morning. Thank you for  
20 having me here to speak about, in support of the  
21 proposed amendments. My name is Marie Mark. I'm an  
22 immigration staff attorney at Brooklyn Defender  
23 Services. BDS is a public defender office that  
24 protects the legal rights of more than 40,000  
25 Brooklyn residents each year. By their nature,

2           detainers interfere with our justice system by  
3           preventing the release of immigrants to their  
4           communities even when a state judge thinks that  
5           release is appropriate. While the current law has  
6           mitigated some of the harm of detainers, there's  
7           still room for improvement. Clients with an  
8           immigration detainer as Genia spoke about, are still  
9           spending unnecessary time in pre-trial detention. We  
10          are also seeing many clients with detainers who are  
11          denied access to Alternative to Incarceration  
12          Programs. One of BDS's clients, I'll call him John,  
13          was unable to finish court ordered drug treatment  
14          because of detainer lodged against him. A judge had  
15          put him in jail for just a few days to teach him a  
16          lesson after his urine tested positive for drugs on  
17          one occasion. While he was at Rikers an immigration  
18          hold dropped. He wasn't eligible for release under  
19          the detainer law because of prior misdemeanor  
20          convictions. The Criminal Court Judge personally  
21          wrote a letter to ICE asking them to lift the  
22          detainer and ICE refused. Our client was transferred  
23          to immigration custody and spent a year in detention  
24          in New Jersey fighting against his deportation. He  
25          wasn't able to complete drug treatment. ICE has told

2 us repeatedly they won't consider lifting detainers,  
3 even for clients whose circumstances are very  
4 compelling. ICE wants to make the custody  
5 determination only after a client is transferred  
6 pursuant to a detainer. But they're issuing these  
7 detainers without any review of whether they are  
8 appropriate. For example, BDS right now is  
9 representing a young man who's fleeing gang violence  
10 and recruitment in El Salvador. Our client has been,  
11 was incarcerated at Rikers Island for over two months  
12 because of the immigration hold. He'd been targeted  
13 by local gangs as one of the few college students in  
14 his neighborhood. After repeated harassment and  
15 threats, he fled, coming to the United States as an  
16 unaccompanied minor. He was stopped at the border  
17 and released with a notice to appear in the  
18 immigration court, but when he went to court they  
19 told him there was no record of him in the system. He  
20 went home and continued to adjust to life in the  
21 United States and didn't receive any more notices  
22 from immigration. He had no idea he'd been ordered  
23 deported in his absence until he was arrested. He  
24 was depressed and frightened in jail, but even more  
25 terrified of being deported to El Salvador. Although

2 the DA was willing to dismiss his case early on, we  
3 asked them to delay the case so that he--and our  
4 client had to wait in criminal custody for two months  
5 while our office worked to have his immigration case  
6 reopened. There are other examples of the harsh  
7 consequences of honoring detainers in my written  
8 statement. I'd like to thank you for allowing me to  
9 testify today.

10 GAVINO HERNANDEZ: Buenos dias.

11 [speaking Spanish]

12 TRANSLATOR: Good morning. My name is  
13 Gavino Hernandez, and I'm a member of Make the Road  
14 New York. Thank you to the Speaker Melissa Mark-  
15 Viverito, the Council Member Carlos Menchaca, and all  
16 the Council Members here for having given me the  
17 opportunity to tell my story. I am from Puebla [sp?]   
18 Mexico. I came to this country 20 years ago to look  
19 for a better life. I found my wife here. Today, we  
20 have four kids, all citizens. The oldest is 18 years  
21 old, and I want to support the proposal on the table  
22 today because it would help immigrant families like  
23 my own, not to have to go through all that I went  
24 through and confront what we are confronting. I was  
25 arrested after a bar fight. I was trying to protect

2 an elderly gentleman who was being harassed, and when  
3 I tried to do that they called the police of a door  
4 that I had broken, and they arrested me. I spent two  
5 and a half months in jail. I could not leave or pay  
6 bail because I had a hold from my immigration. I had  
7 to wait there. While I was inside I knew that my  
8 family was hungry. They did not have any money.  
9 That was why I accepted a lower charge, a plea deal,  
10 criminal negligence or something like that. It was  
11 to get out. But they just took me directly to  
12 immigration. There, thank God, they let me go with  
13 my family. But I'm still fighting a case against  
14 deportation. I'm with the organization and the my  
15 lawyer is doing good work, but regardless, I would  
16 never have been in the situation if it had not been  
17 for the collaboration between ICE and the city. I  
18 would have paid my bail and been back with my family  
19 as always. That's why I think it is critical to pass  
20 this proposal so that fathers like me don't have to  
21 confront my family separation, that would leave my  
22 kids alone depending on the government and public  
23 assistance. Also, now, I do not trust the police,  
24 because why would I call them if any situation could  
25 risk everything I have worked for. Passing this

2 proposal would create a little more confidence  
3 between the community and the police which will make  
4 us all safer. Many thanks.

5 JASMINE RODRIGUEZ: Hi, good afternoon.  
6 My name is Jasmine Rodriguez. I was born at Elmer's  
7 [sic] Hospital Queens to an Irish mother and a  
8 Dominican father. I am a US citizen and I am a New  
9 Yorker. I have lived my entire life here. I now  
10 live in Ozone Park with my partner, Louis, and our  
11 three US born children that is Chris and Roman who  
12 are from a prior relationship of mine and our six  
13 year old daughter Jazlyn [sp?]. Thank you for giving  
14 me the chance to speak today. I would like to share  
15 with you the chaos, confusions, and incredible  
16 sadness my family went through while Louis was held  
17 at Rikers Island for four long months under an  
18 immigration detainer. I believe no family should  
19 have to suffer in this way. I know you have the  
20 power to change the law to protect families like  
21 ours, and I ask you to support the change that will  
22 help keep families like us together. Louis and I  
23 have been together for eight years now. When I first  
24 met him I had lost everything. I was in a homeless  
25 shelter with my sons after their biological father

2 had taken all my savings and abandoned us. Louis was  
3 a constant comfort to us. He still is. Most men get  
4 scared off by a woman who's 100 percent devoted her  
5 children, but Louis wasn't like that. If I needed to  
6 go to the hospital for my kids, he was there for me.  
7 He would bring my babies things I needed to whichever  
8 shelter I was staying in. He helped me and get my  
9 first apartment and then helped me move into it. He  
10 takes care of Chris and Roman, now 15 and 12 as if  
11 they were his own sons. They both have educational  
12 disability and Roman suffers from severe health  
13 problems. Louis is very patient with them and he is a  
14 good role model for them, and he is the most devoted  
15 dad to our little girl. Louis had been a taxi driver  
16 with the same private services in Ozone Park for as  
17 long as I've known him. He works steady and hard all  
18 the time, and he has supported me and our children  
19 financially, mentally, physically and more for all  
20 these years. In July of last year, Louis was arrested  
21 in Brooklyn. He was driving his taxi cab and a cop  
22 pulled him over for failure to signal while driving.  
23 What would have and should have been a ticket and  
24 maybe a fine turned into a nightmare for us. When the  
25 cop ran Louis' driver's license against a database,

2 the cop saw that Louis had an old deportation order.

3 So Louis was arrested and once he was arrested, an

4 immigration detainer dropped against him. Louis

5 couldn't come home that day or the next day, even

6 though the prosecutre in the criminal case was

7 willing to dismiss the charges, because of the

8 immigration detainer, Louis was jailed and couldn't

9 come home to us for the next four months. My

10 children and I were so scared and worried for him and

11 for us. Jazlyn was waking up nights with nightmares.

12 My daughter couldn't sleep. It was so terrifying for

13 her to not see her father when she use to see him

14 every day. My sister had to move in with us to help

15 because Louis wasn't there to raise the kids with me.

16 I know it was ter--sorry. I know it was tearing

17 [sic] for Louis apart too, not to be home with us and

18 taking care of us. He is our only bread winner, so

19 my children and I were torn into financial crisis

20 with his detention. All of this because Louis is not

21 a US citizen and there was an immigration detainer

22 against him. Louis came to this country from

23 Dominican Republic as a teenager and has been living

24 in the United States for more than 30 years. He has

25 received his green card as far back as 1986. Still,

2 Louis was ordered deported in the 1990's for the one  
3 and only criminal conviction he had from 20 years  
4 ago, a felony drug possession case. He was sentenced  
5 only to probation for that offense and he  
6 successfully completed the probation, even discharged  
7 early, but back then, the immigration law had just  
8 changed for the worse and immigration judges were  
9 wrongfully denying people like Louis their chance to  
10 ask for a deportation pardon. Louis' lawyers at  
11 Brooklyn Defender Services explained that they could  
12 help him reopen his deportation case and speak--and  
13 seek the pardon denied to him so many years ago.  
14 They work hard to prepare the papers to the  
15 immigration court asking for that reopening. Because  
16 of the immigration detainer, Louis had to make the  
17 painful choice of staying in at Rikers Island during  
18 those four months it took for them to reopen it. The  
19 other choices he had to face was simply far worse,  
20 getting a quicker resolution of his criminal case,  
21 only to disappear into immigration jail and risk  
22 being deported and separated from me and our children  
23 for forever. I thank this City Council for listening  
24 to me today. I hope what I have told you today will  
25 help you decide to change the local laws so that

2 other families will not suffer the way we did. I  
3 hope you continue to work to protect people against  
4 being held in jail unnecessarily and against being  
5 turned over to immigration. Thank you.

6 CHAIRPERSON MENCHACA: Thank you so much,  
7 Ms. Rodriguez, for your testimony. That was  
8 incredibly powerful and really the entire panel,  
9 you've given us a personal account of how this system  
10 is not only broken, but how it's effecting your  
11 family on the ground in your individual families.  
12 And what I also want to say is that these stories are  
13 not stories that we keep to ourselves. These are the  
14 stories that we tell our family members and our  
15 friends, and they have this ripple effect in our  
16 communities. And so when kids are in this situation  
17 and they go to school, and we're hearing from schools  
18 that our kids are failing because of this issue.  
19 We're hearing from folks in--I want to--Ms. Mark,  
20 about one of your, Mr. John, who couldn't get access  
21 to Alternatives to Incarceration and programs on drug  
22 treatment programs. These are things--this isn't  
23 justice that we're talking about at all, and so this  
24 hopefully will solve that, those issues, but I also  
25 want to connect to the fact that these are moment

2 where people have to make decisions in which they  
3 either make bail and leave the Department of  
4 Corrections and then get put into this abyss, this  
5 dark, dark space called Immigration Courts and then  
6 get kind of trapped into this. What I also want to  
7 connect everybody to is the NYFUP program, the New  
8 York Immigration Family Unity Project, and emphasis  
9 on unity. We want to reunite. That's why we made  
10 such a huge commitment this year to bring those  
11 dollars into the court system and to make sure that  
12 happened and that they qualified based on income,  
13 they can get access to legal representation. This--  
14 and the third thing I want to connect to all of this  
15 is the Municipal Identification Card that this City  
16 Council passed, the Mayor signed, and is coming in  
17 January will allow for those conversations to happen  
18 on the ground so that--Mr. Hernandez was talking  
19 about, why do we call the police? Why should we call  
20 the police if we're going to be potentially in an  
21 altercation with them about our immigration status?  
22 That's going to hopefully heal that conversation  
23 issue and connect communities to police. So you've  
24 really kind of hit every kind of component that this  
25 council for the last month, last nine months has been

2 committed with our advocates and community partners  
3 and residents like you. So I just want to say thank  
4 you so much, really painting the picture and for  
5 being so brave to be here to talk about your story,  
6 and very soon, this is a long term work that we're  
7 all doing, and this is a marathon not a sprint.  
8 We're going to get there. And I just want to say  
9 thank you so much for your time.

10 JASMINE RODRIGUEZ: Thank you.

11 CHAIRPERSON MENCHACA: Thank you. Our  
12 next panel, Abraham Paulos. Correct me if I said your  
13 name wrong. Marissa Ram, Joseph Rosenberg, Farrin  
14 Anello, and Cynthia Cook, if you could come to the  
15 table please. Mr. Rosenberg, you can start your  
16 testimony, and I'll read, before you start, I'm going  
17 to read the next panel so you're ready for the cue.  
18 Mr. Corey Forman, Hedwin Salmen-Navarro, Juana  
19 Peralta, Helen Drook from NYLAG, and then Oriana  
20 Sanchez, you'll be next in cue. Mr. Rosenberg?

21 JOSEPH ROSENBERG: Okay. Thank you.  
22 Good afternoon, Chairman Menchaca. I'm Joseph  
23 Rosenberg, Director of the Catholic Community  
24 Relations Council. I'm pleased to be here today and  
25 to testify in support of Intros 486 and 487. Intros

1

COMMITTEE OF IMMIGRATION

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2 486 and 487 establish very limited and specific  
3 criteria for detaining individual by NYPD or the  
4 Department of Corrections at the request of ICE.

5 These bills clarify that immigration detainees issued  
6 by ICE will not be honored by DOC or the NYPD, unless  
7 a federal judge issues a warrant for such detention  
8 based upon the conviction of a violent or serious  
9 crime or the identification of the subject as a  
10 possible match in United States terrorist screen  
11 database. Over the last several years, the City  
12 Council has moved in the direction protecting  
13 immigrants and our city from unjust detention. In  
14 2011, the Council limited DOC's cooperation with ICE  
15 by creating a category of persons not to be detained  
16 for deportation proceedings. Just last year in 2013,  
17 you further clarify that individuals defined under  
18 the New York State penal law as traffic immigrant  
19 victims forced into prostitution cannot be detained  
20 and deported. Current law, however, still requires  
21 the city to comply with detainer requests without  
22 requiring a judicial warrant or for alleged  
23 misdemeanors. Such harmful enforcement policies  
24 serve only to disrupt and destroy households.  
25 Families find themselves crippled with a detainer and

2 deportation of loved ones based only on accusations  
3 of minor violations. The bills before you, however,  
4 remedy this unfortunate situation and are another  
5 important step in your successful efforts to continue  
6 to welcome, embrace, and protect the immigrant  
7 community of our city. The protection of this  
8 growing community regardless of one's place of origin  
9 or religious beliefs is at the heart of the mission  
10 of both the immigrant and refugee services of  
11 Catholic Charities of the Archdiocese of New York and  
12 of Catholic Migration of the diocese of Brooklyn.  
13 The church has been at the forefront of immigration  
14 reform in this country and city for over 100 years.  
15 Over the last several decades, Catholic Migration and  
16 Immigrant and Refugee Services have worked to help  
17 immigrants and refugees find a safe haven in our  
18 city, reunite with their families, learn English,  
19 obtain housing, receive employment counseling and  
20 obtain legal services to protect them from  
21 unwarranted detainer and deportation and essential  
22 protection that you are advancing today with your  
23 hearing on these measures. This City Council has  
24 consistently been a champion of New York's immigrant  
25 community, and your actions today further solidify

2 your commitment to improving and protecting the lives  
3 of thousands. Thank you.

4 ABRAHAM PAULOS: Thank you so much. My  
5 name's Abraham Paulos. I'm the Executive Director of  
6 Families For Freedom, a New York City based human  
7 rights organization that's led by people with  
8 convictions affected by ICE policies. We educate  
9 people about deportations. We try to organize and we  
10 also advocate for policies that have and promote the  
11 human rights to be with our families and to remain in  
12 our communities. I first learned about ICE's presence  
13 in Rikers Island while I was in prison there. While  
14 I was there I was able to avoid ICE's apprehension,  
15 thanks to a fellow person that was also imprisoned  
16 there that alerted me and informed me about ICE's  
17 presence. I went home. I was able to get support  
18 from Families For Freedom and from the Immigrant  
19 Defense Project, was able to beat my case. That's  
20 not a luxury. That should be a right for all New  
21 Yorkers. Citizens, noncitizens alike have that human  
22 right to be with their families and to reintegrate.  
23 Because of ICE's policies, thousands of New Yorkers  
24 suffer daily at the hand of the deportation machine.  
25 Loved ones are banished forever, families are

2 separated, folks are going to detention indefinitely.  
3 Some even perish in these detention facilities. Our  
4 members goes through that every day, all day,  
5 children without a parent, spouse that's left to do  
6 the work of others, folks that are languishing in  
7 faraway detention centers, some even to the point of  
8 suicide. ICE and the collaboration with New York  
9 City needs to end, because by having that  
10 collaboration there is this complacent sort of issue  
11 with being against and with these human rights  
12 violations. Now, we support this legislation to get  
13 ICE out of Rikers. We commend the City Council. We  
14 commend all those advocates that are here to support  
15 that city--that legislation. We do have certain  
16 concerns. One of those concerns is that if a city  
17 employee violates this new bill, what happens to  
18 that? We also do understand that ICE is evicted from  
19 Rikers Island, but do they still have access to city  
20 jails? And last the concern is around data. When  
21 folks are released, will our personal information be  
22 shared, where we live, phone numbers, where we work,  
23 particularly those that are on probation? We must  
24 head the warning of other organizers and other  
25 localities. ICE has ramped up to aggressive tactics

2 in lieu of detainer policies, such as raids at homes,  
3 going to courts. Also the probation program is  
4 really disserving. With this momentum that we've  
5 built on this City Council bill and this legislation,  
6 we hope that the City Council, Immigrant advocates  
7 can urge the Mayor to take head of this momentum to  
8 essentially use executive authority to allow for city  
9 polices to reflect the reality that this bill is  
10 going to create, and essentially by making sure that  
11 NYPD and DOC do not hold anyone for any civil  
12 immigrant violations, that our data is confidential  
13 and secure, and that does not get shared with ICE,  
14 and that we designate sensitive locations to prohibit  
15 ICE from being in these locations, such as homes,  
16 schools, places of worship, city hall.

CYNTHIA CONTI-COOK: Good afternoon. My  
18 name is Cynthia Conti-Cook. I'm from the Special  
19 Litigation Unit of the Legal Aid Society. Thank you  
20 for the opportunity to testify and for continuing to  
21 respond to this fundamental unfairness in our justice  
22 system. We urge the Council to act swiftly. This  
23 past summer, Legal Aid led by young attorneys from  
24 Queens, who've joined us today, filed writ of habeas  
25 corpus all over the city on the premise that it was

2 unconstitutional for DOC to hold anyone beyond the  
3 end of a criminal case without new charges. Through  
4 these efforts, they secured the release of over 20  
5 clients to the community rather than letting DOC  
6 release those clients to ICE. But for how long after  
7 a person is free to go will our attorneys still have  
8 to fight for their client's release. Many people  
9 would be free to go from arraignments but for ICE  
10 detainers. Legal Aid handles over 200,000  
11 arraignments per year and we are all too familiar  
12 with how NYPD operates at arraignments in regards to  
13 ICE detainers. Contrary to testimony today, the NYPD  
14 in our experience was rarely able to identify who is  
15 eligible for release under the 2013 detainer law  
16 before they were arraigned, making release from  
17 arraignment into NYPD custody risky for our clients.  
18 As several people testified today, they opted to have  
19 bail set in order to have that examined more closely  
20 so that they could be released from DOC. We saw that  
21 with our clients many times as well. Specifically,  
22 it has been historically impossible for the NYPD and  
23 our defense attorneys to verify before arraignments  
24 whether someone was previously deported. While these  
25 bills are huge steps forward in limiting cooperation

2 with ICE and we wholeheartedly applaud that, we still  
3 have concerns that such confusion and inconsistency  
4 will continue under a new law, because as we read it,  
5 Section B2 of the proposed NYPD bill authorizes  
6 detention without a judicial warrant, if the NYPD  
7 believes that person was previously deported and has  
8 a recent violent and serious record. This exception  
9 to the judicial warrant requirement is not, again as  
10 we read it, in the DOC bill. The point is this,  
11 simple rules are the easiest to enforce. We  
12 therefore, urge the city to adopt a simple and  
13 consistent rule that neither the Department of  
14 Correction, nor the police department shall be  
15 authorized to honor an ICE detainer, absent an arrest  
16 warrant from an Article Three Judge. Finally, being a  
17 possible match on a terrorist database is a factor  
18 both bills propose. We ask that you conduct a  
19 thorough review of the recent investigations into the  
20 unreliability of these databases before making it a  
21 factor that justifies one's detention. We do very  
22 much appreciate the Council's sustained attention to  
23 this issue. We can't emphasize enough how it's swift  
24 resolution will help us achieve a more fairly

2 operating justice system for our community. Thank  
3 you again.

4 MARISSA RAM: I just want to thank Chair  
5 Menchaca and the members of City Council that are  
6 here today for the opportunity to testify in support  
7 of Intros 486 and 487, which would reduce the impact  
8 of the federal government's secure communities  
9 program on countless of New York City's victims of  
10 domestic violence, trafficking and other crimes as  
11 well as homeless and street involved youth that  
12 experience abuse and exploitation. My name is  
13 Marissa Ram, and I'm an attorney at Safe Horizon.  
14 Safe Horizon is the nation's leading victim  
15 assistance association and New York City's largest  
16 provider of services to victims of crime and abuse as  
17 well as these victim's families and communities.  
18 Safe Horizon Immigration Law Project provides expert  
19 legal counsel in immigration proceedings to victims  
20 of crime, torture and abuse. We represent thousands  
21 of immigrants in their VOWA [sic] battered spouse  
22 self-petitions, U-Visa applications for crime victims  
23 and asylum petitions. We assist immigrant children  
24 and youth who are the victims of abuse, neglect or  
25 abandonment in filing for special immigrant juvenile

2 status, and we also counsel clients and numerous  
3 others of immigration law including permanent  
4 residency, naturalization, work authorization  
5 applications as well as defense and deportation and  
6 removal proceedings. Safe Horizon's anti-trafficking  
7 program is the largest such program on the East  
8 Coast, and since its founding we have assisted over  
9 500 survivors from more than 60 countries. We offer  
10 intensive case management, legal services to  
11 survivors of trafficking. We work on legislative  
12 advocacy at the federal, state and local levels, and  
13 we also provide comprehensive trainings to our  
14 partners in government, law enforcement, medical  
15 care, and social services. Safe Horizon applauds the  
16 New York City Council for taking a stand and joining  
17 the growing number of jurisdictions across the  
18 country that either refuse to comply with ICE's  
19 detainer requests or only comply with them in very  
20 limited circumstances. We commend Speaker Melissa  
21 Mark-Viverito, Immigration Committee Chair Carlos  
22 Menchaca and the entire City Council for recognizing  
23 that detainer requests from the federal government  
24 are voluntary. They differ from criminal detainees.  
25 They differ from criminal warrants, and they fail to

2 provide a lawful basis for arrest and detention, and  
3 that municipalities may indeed be violating the  
4 constitution by holding someone based on a detainer  
5 without sufficient cause. And as many of you know,  
6 between October of 2012 and September 2013, more than  
7 3,000 people in New York were transferred to Federal  
8 Immigration Authorities for deportation pursuant to  
9 an ICE detainer. And according to information  
10 obtained under the Freedom of Information Act, no  
11 more than 14 percent of detainees issued by the  
12 government in fiscal year 2012 and the first four  
13 months of fiscal year 2013 met ICE's stated goal of  
14 targeting individuals who "pose a serious threat to  
15 public safety or national security." And in fact,  
16 nearly 350,000 individuals subject to an ICE  
17 detainer, so this is almost 50 percent, have no  
18 record of a criminal conviction, even a minor traffic  
19 violation as we heard in earlier testimony. And as  
20 advocates and service providers who work with  
21 survivors of human trafficking, sexual assault,  
22 intimate partner violence and domestic violence as  
23 well as other forms of abuse and exploitation, we  
24 have witnessed firsthand the tragic impact of New  
25 York City's prior collaboration with ICE on countless

2 immigrant survivors that we serve as well as their  
3 families and communities. And as we noticed, noted  
4 in our testimony to the City Council in January 2013,  
5 it is truly the rare occurrence that a victim reaches  
6 our program without at least one prior interaction  
7 with law enforcement. In many cases, victims of human  
8 trafficking will be arrested for prostitution, theft  
9 or other crimes. Our clients, including those who  
10 use weapons to defend themselves from their abuser or  
11 exploiter will often plead out to lesser charges in  
12 order to avoid the risk of deportation. Having a  
13 victim arrested is often, in fact, the goal of an  
14 abuser or a trafficker. The threat of criminalization  
15 and the possibility of deportation are used as tools  
16 of coercion and control. They create a situation  
17 where both the criminal justice system and  
18 immigration enforcement work to the perpetrator's  
19 advantage, and this renders victims even more fearful  
20 of seeking help from law enforcement. Dual and  
21 mandatory arrests are common in cases of intimate  
22 partner violence or domestic abuse and this can  
23 expose a victim with criminal history that may appear  
24 on first glance to be unrelated to their abuse to  
25 detention, deportation, and separation from children,

2 family and community. We encourage the City Council  
3 to ensure that the NYPD is provided with additional  
4 support and direction on how to proceed when they  
5 suspect somebody may be a victim of intimate partner  
6 violence, domestic violence, human trafficking or  
7 other forms of abuse and exploitation. In our  
8 experience, proper screening for trafficking and  
9 identification of victims remains extremely  
10 challenging. Despite prosecutorial discretion,  
11 victims of human trafficking are consistently  
12 deported without crucial screening and services that  
13 would have in fact identified them as victims. And  
14 at times, they're deported right back into the hands  
15 of their traffickers or their trafficker's  
16 associates. The multiple arrests--

17 CHAIRPERSON MENCHACA: [interposing] If  
18 we can wrap--just--

19 MARISSA RAM: [interposing] Oh, sure.

20 CHAIRPERSON MENCHACA: Wrap it up.

21 MARISSA RAM: Sure. I think the main, the  
22 sort of the last thing I wanted to point out is that  
23 for our clients that are LGBTQ, they're already at a  
24 higher risk of profiling arrest and detention, and so  
25 they are, remain the most vulnerable to abuse and

2 detention. They also are especially our transplants,  
3 they're disproportionately at risk of sexual and  
4 other forms of abuse in immigration detention and ICE  
5 refused to include protections that are routinely  
6 provided by other corrections and law enforcement  
7 agencies around the country that were pursuant to the  
8 Prison Rape Elimination Act, so as a result, you  
9 know, even though this is a smaller risk now, due to  
10 these bills if they're passed, this is incredible for  
11 so many of our clients. It's dangerous for any of  
12 our clients who are vulnerable, but especially our  
13 LGBTQ clients and our trans clients in particular to  
14 have any contact with detention, the detention and  
15 deportation system at all because they have shown  
16 time and time again they cannot keep them safe. So,  
17 thank you.

18 CHAIRPERSON MENCHACA: And I want to  
19 really thank you for bringing that voice into this  
20 conversation with our LGBTQ, particularly our  
21 transgendered community and our detention facilities,  
22 and like Council Member Dromm said that we're working  
23 really, really hard to figure out what we can do on  
24 that front, but I want to just thank you again for  
25 illustrating that. And really, for all the questions

2 that were posed and just the continued commitment  
3 from all of you in the advocacy world and legal, the  
4 legal world, legal services world I should say, the  
5 questions you brought up in its entirety about how we  
6 need to continue to look at those communities. We  
7 need to look at the databases and the information  
8 that's being shared, the access to not just our, you  
9 know, Rikers, but also our city jails, the raids that  
10 we've seen in other municipalities like New Orleans.  
11 We're looking at that very, very strongly, and then  
12 just the intimate or domestic partner violence and  
13 really making sure that we're connected to that  
14 community, that work that needs to happen on that  
15 front. That comes down as local as our precincts and  
16 how we make, we're making sure the precincts have all  
17 their training. And so we hear you. We hear you.  
18 These are the same questions we have. We're looking  
19 at a lot of this and so we're going to be able to do  
20 some report back from our committee, and a lot of  
21 these questions are being asked right now, and we'll  
22 be able to report very, very soon on all those  
23 things. Those are things that we're taking very,  
24 very seriously. So thank you so much. Oh, and we  
25 have one more. That's right. Thank you. And so

2 from here on out, we want to make sure that we keep  
3 to our three minutes, and so what I'll say for here  
4 and the rest of the panels, a lot has been said thus  
5 far, and so if we can concentrate on things that are  
6 a little bit new maybe or highlight, worthy of  
7 highlighting in testimony. All your testimony is  
8 going to be inserted into the public record, but if  
9 we could keep the conversation going, that'll be  
10 great. Thank you.

11 FARRIN ANELLO: Thank you, Chairman  
12 Menchaca. I want to thank you and committee and  
13 Speaker Mark-Viverito for your leadership on this  
14 really important issue and for giving us the  
15 opportunity to speak today. My name is Farrin  
16 Anello. I'm a visiting Assistant Clinical Professor  
17 at Seaton Hall Law School, where I focus on  
18 immigration law, but I'm speaking today in my  
19 capacity as Chair of the Detention Subcommittee of  
20 the Immigration and Nationality Law Committee of the  
21 New York City Bar Association, and I'm also  
22 representing several other committees, the Criminal  
23 Courts Committee, the Criminal Justice Operations  
24 Committee and the Corrections and Re-entry Committee  
25 of the City Bar. We represent collectively a wide

2 range of lawyers, prosecutors, defense lawyers,  
3 immigration lawyers, law professors, and we commend  
4 the City Council for taking action on detainer  
5 reform. We support the pending bills for a variety  
6 of reasons, but primarily because they help local law  
7 enforcement to make the city safer while protecting  
8 the constitutional rights of all New Yorkers and  
9 saving tax payer dollars. While these bills  
10 represent a huge step forward, we also urge the city  
11 to go a step further and to stop accepting all ICE  
12 detainers as well as to take steps to ensure that ICE  
13 does not have the ability to interview people or  
14 speak with people in city facilities before  
15 individuals have had access to immigration counsel.  
16 Over 250 localities across the country have now  
17 limited or ended compliance with detainer requests.  
18 This summer, the New York State Sheriff's Association  
19 recommended that its members refuse all detainer  
20 requests, and as you may know, Suffolk and Nassau  
21 Counties among many others have already done so. New  
22 York City, under the current law, honors 63 percent  
23 of detainer requests. So this law is a very  
24 important step. Accepting detainer requests violates  
25 the constitutional rights of New Yorkers. First,

2 detainees raise serious due process concerns because  
3 New Yorker cannot challenge them in court, and  
4 because people held on detainees are usually  
5 transferred to ICE detention, often in remote  
6 facilities and often without access to counsel.  
7 Detainers also raise serious fourth amendment  
8 concerns. They are not issued by a judge and do not  
9 require probable cause. This is why the warrant  
10 requirement is critical. Next, ICE detainees are  
11 very expensive for the city. As has been discussed,  
12 individuals with ICE detainees are kept in detention  
13 an average of 73 days longer than someone who does  
14 not have an ICE detainer. ICE detainees, not only  
15 extend detention after a sentence has been imposed in  
16 Criminal Court, but they can also cause judges to  
17 deny bond in pretrial proceedings and they can bar  
18 access to problem-solving courts, treatment programs  
19 or other alternative to detention, or excuse me,  
20 incarceration even when the district attorney's  
21 office may support this alternative sentence. Just  
22 very briefly, compliance with ICE detainees also  
23 undermines community trust in law enforcement. That  
24 is one of the real reasons that we think it's  
25 important to have a clear rule of not cooperating

2 with any ICE detainees because that clarity is  
3 important to building trust in the community and  
4 making people feel safe in calling the police or  
5 cooperating with the police. And so for all these  
6 reasons, we refer otherwise to our written testimony  
7 and thank the Council very much for your action on  
8 this issue.

9 CHAIRPERSON MENCHACA: Thank you so much  
10 for being here and for representing all the work that  
11 the Bar is doing and all the committees that you're a  
12 part of and just having work with various components  
13 of the Bar, the work is very important, and as you  
14 specialize throughout all these committees. This is  
15 clearly impacting a lot of them, and so we're very  
16 committed to taking a lot of the testimony and the  
17 concerns and the accomplishments of this bill is  
18 going to have on our justice system. So thank you so  
19 much for being here. Thank you to the panel. And  
20 we're going to call the next panel up, if you can  
21 already start walking to the table. Oriana Sanchez,  
22 Helen Drook, Juana Peralta, Hedwin Salmen-Navarro,  
23 and Corey Forman. The last panel on cue for next is  
24 Jessica Rosco [sp?] from Hispanic Federation, Devin  
25 Buroni [sp?], Nabila Taj from CUNY Law School, and

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COMMITTEE OF IMMIGRATION

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2 Carolyn Solis from Neighborhood Defender Services of  
3 Harlem. You'll be the last panel to testify today.  
4 Thank you so much again, and remember, let's stick to  
5 time and really concentrate on some of the things  
6 maybe that we haven't heard and really maybe  
7 emphasize the top points in your testimony. All that  
8 testimony's going to be included in our records.  
9 Thank you. We can start from the left here.

10 HEDWIN SALMEN-NAVARRO: Sure. My name is  
11 Hedwin Salmen-Navarro. I'm alongside with Corey  
12 Forman. We co-chair the Immigration Customs and  
13 Enforcement/Enforcement and Removal Operations  
14 Committee of AILA's New York Chapter. We thank you,  
15 Chair Menchaca for this opportunity to speak before  
16 the panel today. Really quick, AILA has over 13,000  
17 members nationwide, with more than 1,500 members in  
18 New York whose practice has been in the entire scope  
19 of immigration law because of our knowledge,  
20 experience and expertise in immigration law including  
21 dealings with the impact and effect of civil  
22 immigration detainers on a daily basis. We're well  
23 positioned to discuss with the Council the proposal  
24 to limit the use of detainers in New York City.  
25 Because of the lack of time, I'm going to allow my

2 Co-Chair to speak about the financial burdens of the-

3 -

4 COREY FORMAN: Good afternoon and thank

5 you Council for giving us this opportunity. I'm

6 going to speak a little bit about the financial

7 considerations that should be taken into effect.

8 Since foreign national subject to a detainer are

9 released from police or DOC into ICE custody, once

10 they either post bail or plead guilty, attorneys,

11 criminal defense attorneys often advise them to move

12 the case toward trial to at least have a chance at

13 avoiding a second detention. This is vastly more

14 costly to the city than plea bargaining and results

15 in unnecessary expense and preventable court delays

16 and back logs. Since the federal government does not

17 reimburse New York City for continuing to incarcerate

18 these individuals who have otherwise been released,

19 the city wastes precious funding detaining people

20 already determined to be not a threat to the

21 community. Refusing to honor detainers will save the

22 city a considerable amount of money which can be

23 better directed at supporting rather than punishing

24 immigrant communities. In addition, requiring the

25 judicial warrant component of the bill is important.

2 By doing this, before honoring a detainer will mean  
3 that the city no longer has to rely on its own  
4 personnel and its own resources to determine who and  
5 who does not come under the reach of the law. Aside  
6 from the fact that this current system is completely  
7 contrary to those fundamental principles of due  
8 process, it is also an unwarranted expenditure of  
9 local resources. I will also say that the detainer  
10 policy has a crippling effect on our overall criminal  
11 justice system and the lodging of the detained  
12 undermines any incentive for incarcerated criminal  
13 defendants to resolve even minor offenses within a  
14 short period of time through the payment of fine,  
15 community service, or the acceptance of a sentence of  
16 time served. That will just speed up, because that  
17 ultimately will just speed up their transfer to ICE  
18 custody. Similarly, it often renders the posting of  
19 criminal bail useless as noncitizens will wind up in  
20 ICE custody soon after their own bail is posted. As  
21 a result, hundreds if not thousands of criminal cases  
22 are kept pending for months, sometimes even years,  
23 far longer than they otherwise would. This is a huge  
24 financial expense to the city, both in terms of  
25 litigation and incarceration costs. I'll also note

2 that law enforcement agencies around the country and  
3 in New York are facing lawsuits filed by prisoners  
4 who argue that extending their incarceration on the  
5 basis of a detainer violates their constitutional  
6 rights. These lawsuits are becoming increasingly  
7 frequent with growing success for the plaintiffs. We  
8 are delighted that the City Council recognizes these  
9 reasons for significantly limiting the use of  
10 detainers, as again, there is a huge financial  
11 burden. Again, and finally, furthermore, from the  
12 direct financial burden there is also the indirect  
13 ones to consider. Most notably, the loss of the  
14 economic contributions of foreign nationals that have  
15 been extensively discussed during this hearing. So I  
16 will defer to just one final humanitarian point with  
17 my colleague. Thank you again.

18 HEDWIN SALMEN-NAVARRO: Far too many  
19 noncitizens, both long time permanent resident and  
20 individuals without immigration status have been  
21 swept up by overzealous immigration enforcement  
22 systems that does not see them as individuals with  
23 certain rights and respect. Like many people of  
24 color in New York City and elsewhere, immigrants  
25 often bear the brunt of unfair policies and

2 practices. Their interaction with law enforcement  
3 often begins with a traffic spot or other routine  
4 incident and ends up with their banishment from the  
5 only country they call home. In sum, AILA supports  
6 the efforts of the City Council to limit the use of  
7 detainees and overall cooperation with ICE and DHS.  
8 Significantly, the constitution, federal courts,  
9 human rights and sound public policy all support this  
10 position as well. We commend the City Council for  
11 taking the complete steps to ensure that immigrants  
12 feel welcome, protected, and safe in New York City.

13 HELEN DROOK: Good afternoon. I'm really  
14 excited to be here. My name is Helen Drook, and I'm  
15 a Senior Staff Attorney with NYLAG. New York Legal  
16 Assistance Group is one of the largest providers of  
17 civil legal services in New York City. We serve  
18 thousands of immigrants and we applaud the Council  
19 for introducing this legislation and Municipal ID's  
20 by the way as well. I just want to bring up a point  
21 that's very important to us. At NYLAG, and it was  
22 briefly mentioned before, we serve many, many members  
23 of the LGBTQ community, and the fear of deportation  
24 is an everyday reality for thousands of undocumented  
25 New Yorkers, and obviously, it directly impacts how

2 safe they feel in accessing services and cooperating  
3 with criminal investigations. This is especially  
4 true for the New York's LGBTQ immigrant community who  
5 face horrific treatment within immigration detention,  
6 including violence, depravation of necessary medical  
7 care, psychological torture and solitary confinement  
8 and rape. According to the 2013 report, LGBTQ  
9 immigrants held in immigration detention were 15  
10 times more likely to be sexually assaulted. Many of  
11 the LGBTQ immigrants in detention are asylum seekers  
12 or survivors of torture who have fled their home  
13 country to escape persecution for their sexuality and  
14 continue to face violence and harassment here in New  
15 York and the added burden of fear in deportation when  
16 seeking the assistance of local police. As was  
17 mentioned here before, detainees deprive thousands of  
18 men and women of their basic constitutional due  
19 process rights, and you know, the legislation that  
20 requires detainees to be accompanied by the judge's  
21 warrant would afford New York immigrants additional  
22 degree of protection and prevent more immigrant  
23 families from being separated. Many of our clients  
24 with relatively minor criminal backgrounds who  
25 despaired the great hardship of immigration detention

2 and deportation. When so little is being done in  
3 Washington today to protect this population's  
4 interest, it's extremely heartening that New York  
5 City is choosing to provide a safe harbor and  
6 sanctuary for its immigrants. Thank you, again.

7 ORIANA SANCHEZ: Hi, good afternoon. My  
8 name is Oriana Sanchez, and I'm from the New York  
9 Immigration Coalition. I'll try to keep it brief.  
10 First of all, thank you for giving me an opportunity  
11 to testify today. The New York Immigration Coalition  
12 is an umbrella policy and advocacy organization for  
13 nearly 200 groups in New York State that work with  
14 immigrants and refugees. The NYIC has played a  
15 prominent role in the fight against the encroachment  
16 of immigration enforcement policies and our local law  
17 enforcement agencies, and we commend the City Council  
18 for its efforts in ensuring that the criminal system  
19 does not become a funnel into a broken deportation  
20 system and for creating new protections to restore  
21 due process rights. For detainees, they have led to  
22 increasing numbers of immigrant defendants being kept  
23 in jail for much longer than used to be, and for  
24 example, a detainer often effects an immigrant's  
25 ability to be released on bail pending criminal

2 charges, and according to research conducted by the  
3 justice strategies, immigrants in custody with an  
4 immigration detainer spend up to 73 days longer in  
5 detention on average than individuals without a  
6 detainer. Longer detention periods mean that more  
7 local tax dollars are spent on detaining immigrants.  
8 The unreimbursed cost to New York of this prolonged  
9 detention is estimated to be in the tens of millions  
10 of dollars and the practice of dealing [sic]  
11 immigrants based upon immigration detainees also  
12 exposes local governments to significant financial  
13 liability. In 2009, an immigrant obtained 145,000  
14 dollar settlement with the City of New York after  
15 being held unlawfully for more than a month on an  
16 immigration detainer. When local law enforcement  
17 agencies like the NYPD and the Department of  
18 Corrections collaborate with federal immigration  
19 enforcement agents, immigrant communities become  
20 fearful that any kind of interaction with the police  
21 would lead to detention and deportation. This  
22 discourage immigrant communities from reporting  
23 crimes and cooperating in the investigation of  
24 crimes, making everyone less safe. For example, with  
25 victims of domestic abuse in light of this being

2 domestic abuse month, only 30 percent of documented  
3 women reported their abuses, and a startlingly low 14  
4 percent of undocumented women do the same. In  
5 conclusion, the expansive use of detainers has  
6 allowed DHS, Department of Homeland Security, to  
7 vastly increase deportations at the city's expense.  
8 Countless families have been torn apart. The trust  
9 between local police and the communities they serve  
10 has been badly damaged, and the fairness of the  
11 criminal justice system has been severely  
12 compromised. The continued and proposed amendments  
13 to the administrative code to limit New York City's  
14 cooperation with ICE assures that our city will  
15 continue to become a welcoming community for  
16 immigrants where their contributions are valued and  
17 encouraged. And this wasn't written in my testimony,  
18 since we're trying to bring up topics that haven't  
19 been brought up before, I just wanted to mention that  
20 the criminalization of the homeless in American  
21 cities, it's only growing. And perhaps, this is  
22 something that can be talked about with DHS,  
23 Department of Homeless Services here in New York  
24 City, to see how immigrant homeless are being--would  
25 be affected. Okay? Thank you.

2 JUANA PERALTA: Good afternoon. My name  
3 Juana Peralta from the Sylvia Vera Law Project. I'm  
4 reading a statement of the Anti-Violence Advocates  
5 Coalition Against Deportation, which is based on our  
6 letter attached, signed by 14 organizations. We are  
7 advocates for survivors of domestic, intimate partner  
8 violence, family violence, human trafficking, sexual  
9 assault, other forms of gender based homophobic and  
10 transphobic violence and discrimination against  
11 individuals living with HIV. In 2011, when we  
12 learned of the potential activation of ICE's Secure  
13 Communities Program, we came together to call for an  
14 end to New York's collaboration with ICE. Any  
15 cooperation between ICE and local law enforcements  
16 not only makes our work more challenging, but  
17 actually further victimizes and endangers a survivor  
18 on the road to safety. Through our work, we know  
19 that survivors are often the very people the  
20 government seeks to deport, because they too have  
21 criminal histories. Our clients have a range of  
22 criminal convictions including felony assault,  
23 criminal contempt, and serious drug related  
24 convictions to name a few. Batterers often threaten  
25 immigrant survivors with arrest and deportation and

2 our adept at using the criminal legal system as a  
3 tool to reinforce their power and control. Once  
4 enmeshed in a deportation process, survivors are  
5 often unable to access social services support and  
6 find the road to obtaining immigration relief such as  
7 U or T nonimmigrant status even more difficult. You  
8 can see examples in the letters and stories attached  
9 to this testimony. Even if the criminal charges  
10 against survivors are eventually dismissed, we have  
11 seen firsthand how ICE's ability to identify  
12 immigrants through the booking process has increased  
13 the likelihood that they will face deportation,  
14 detention and indefinite separation from their  
15 children, families and communities. For this reason,  
16 it is essential that we continue to fight ICE's info  
17 sharing programs even where felonies are concerned.  
18 We applaud the city for taking significant measures  
19 to minimize ICE's presence in our criminal legal  
20 system by refusing to honor detainers and eliminating  
21 ICE's presence at Rikers. Thank you.

22 CHAIRPERSON MENCHACA: And I want to just  
23 thank the panel again for not only the advocacy but  
24 the continued awareness of what's happening and as  
25 you know, I think everyone testified to this fact

2 that this bill really addresses a lot of the issues  
3 that we've been seeing, that you've been seeing on  
4 the ground, and so I'm just thankful that you're here  
5 today. I know we're at hour three at this point in  
6 this hearing, but thank you for being here. And on  
7 that note we're going to close with this final panel,  
8 Ms. Caroline Solis, Nabila Taj, Devin Maroney [sp?],  
9 and Jessica Orosco [sp?] from the Hispanic  
10 Federation. If you can head over to the table.  
11 Thank you again for staying with us throughout this  
12 very long but very, very, very important hearing on  
13 two pieces of legislation 486 and 487. Great, you  
14 can begin.

15 CAROLINE SOLIS: Good afternoon. My name  
16 is Caroline Solis, and I'm a Staff Attorney with the  
17 Neighborhood Defender Service of Harlem. We're a  
18 neighborhood based criminal defense organization in  
19 northern Manhattan. I'd like to thank the City  
20 Council for giving us this opportunity to testify  
21 today. At NDS we serve the residents of Harlem,  
22 Washington Heights, Inwood, which includes a large  
23 immigration population from all corners of the world.  
24 We represent clients from the beginning of their  
25 criminal cases all the way through their immigration

2 cases, including any removal cases or applications  
3 for immigration benefits. We, because we represent  
4 these clients in both their criminal and immigration  
5 cases, we see firsthand the way that immigration  
6 detainees infringe upon our clients basic rights to  
7 due process and humane treatment, and so this  
8 proposed bill before the City Council today will have  
9 a profound impact on the lives of our noncitizen  
10 clients and their loved ones. Since the City Council  
11 first passed legislation limiting its cooperation  
12 with ICE detainees, we have seen many benefits to our  
13 clients and their families. They're spending less  
14 time in the DOC custody and they're being reunited  
15 with their families instead of being transferred to  
16 ICE detention centers outside of New York City.  
17 However, unfortunately, not all of our clients have  
18 benefitted from the prior legislation. As a result  
19 of the immigration detainees, there's still  
20 individuals in DOC custody forced to choose between  
21 exercising their constitutional rights and their  
22 criminal cases and spending lengthy amounts of times  
23 in jail. When an immigration detainer is lodged, and  
24 individual cannot be released from their custody  
25 during the pendency of their case. This means a

2 noncitizen is more likely to be held in jail during a  
3 long process of defending against their criminal  
4 charges. For example, one of our noncitizen clients  
5 spent nearly a year and a half in jail at Rikers  
6 Island awaiting trial before his criminal charges  
7 were ultimately dismissed. This was in spite of the  
8 fact that the prosecutor had recommended he be  
9 released on his recognizance, initially. More often,  
10 tired of languishing at Rikers, our clients choose to  
11 plead guilty to a crime of which they have been  
12 wrongly accused which can then lead to their  
13 deportation. Lengthy detention at Rikers Island or  
14 at an immigration jail has devastating consequences  
15 for the families in northern Manhattan that we at NDS  
16 represent. In one instance, our client's family, wife  
17 and children, were unable to afford rent after the  
18 loss of the client's income to the family household.  
19 As a result, the family was forced to move out of  
20 their home and into a city funded homeless shelter.  
21 Therefore, we thank the City Council for the proposed  
22 bill today that will ensure no New York City resident  
23 is unnecessarily detained by the city.

24 NABILA TAJ: Hi, good afternoon. My name  
25 is Nabila Taj. I'm a third year law student at CUNY

2 School of Law. At CUNY I practice as a student  
3 attorney in the Immigrant and Noncitizen Rights  
4 Clinic. We represent individuals in myriad  
5 immigration proceedings. I'm here today to talk to  
6 you about one of my clients, Andreas Veras [sp?], who  
7 is currently in removal proceedings after being  
8 subject to an ICE detainer. Andreas was raised in a  
9 single parent household in the Dominican Republic,  
10 frustrated with the lack of opportunities and upward  
11 mobility, he moved to Puerto Rico to pursue a career  
12 in professional boxing. In Puerto Rico, he became a  
13 lawful permanent resident, which allowed him to later  
14 join his older sister in the Bronx. His limited  
15 ability to communicate in English made it difficult  
16 to obtain a steady job. He worked odd jobs in the  
17 Bronx, and enrolled in English Language classes.  
18 Just a few years after moving to the Bronx, he had  
19 what he describes as one of his proudest moments in  
20 his life, his first child Andrew was born. A second  
21 proud moment occurred when his daughter Emily was  
22 born seven years later. He says his proudest moment  
23 was when he held his granddaughter Grace, Andrew's  
24 daughter, in his arms for the first time. Andreas  
25 treasures his time with his children and has a close

2 relationship with both of them. However, the pressure  
3 of supporting a family and finding a steady job still  
4 proved to be difficult. His neighborhood was ripe  
5 with temptation to make easy money. In June 2012,  
6 Andreas succumbed to the pressure. He was arrested  
7 near his home for possession of a small amount of  
8 drugs and detained at the Vernon C. Bain [sp?] Center,  
9 also known as the Boat for seven months  
10 before his case was finally adjudicated. On March  
11 7<sup>th</sup>, 2013, he accepted a disorderly conduct  
12 violation. At this point he should have been  
13 released to go back to his family. Instead, ICE  
14 issued a request for the Corrections Department to  
15 detain Andreas until he could pick him up. The  
16 Correction Department obliged and detained him for  
17 another five days at Rikers Island. ICE then  
18 detained him at the Hudson County Correctional  
19 Facility in New Jersey for an additional three  
20 months. During that time he felt completely helpless  
21 in ICE custody. He was anxious about being separated  
22 from his friends and family. He did not know what  
23 was going to happen to him. In fact, a psychologist  
24 assessed Andreas while he was in custody and found  
25 that he suffered from symptoms of post-traumatic

2 stress disorder. Because of his constant fear of  
3 being forced to leave a life that he worked so hard  
4 to build in New York City and of being deported to a  
5 country that he had chosen to leave 30 years ago. The  
6 CUNY legal team was able to Andreas released on bond.  
7 Since then we've been working to obtain relief so  
8 that he can remain in the United States with his  
9 friends and family. If Andreas is deported, he would  
10 no longer be with his children or his granddaughter.  
11 He'd be forced to restart his life at age 51 in a  
12 country where he'll be entered into the system as a  
13 criminal deportee upon arrival for a mere violation.  
14 The bill that is up for consideration today would  
15 allow individuals like Andreas to avoid the hardships  
16 that he experienced and continues to experience.  
17 Andreas is just one of countless hardworking New  
18 Yorkers who's needlessly funneled into removal  
19 proceedings because of the criminal justice system's  
20 relationship with ICE. It's time for the city's  
21 police and Correction Department to stop using its  
22 resources to honor ICE detainer requests. I urge  
23 and--I urge the New York City Council to take this  
24 opportunity to prevent the flawed immigration system

2 from tearing families apart, as it is attempting to  
3 do with Andreas and his family. Thank you.

4 CHAIRPERSON MENCHACA: Thank you to both  
5 of you for testimony and your examples of families  
6 that are being affected. These stories continue to  
7 leave the impression of urgency that is needed. And  
8 in my final remarks as we close this hearing, and  
9 again, thank you for being here and being on this  
10 final panel. We've now over three hours have been  
11 speaking to the two bills that are now introduced and  
12 through community testimony, organizations, the  
13 Administration, I think it's more and more clear that  
14 this is something that we need to move forward. The  
15 new bills for both NYPD and the Department of  
16 Corrections offer us a more simple bill, but continue  
17 to road the injustices of ICE that ICE has wrought on  
18 our cities, on our municipalities. What I'm also very  
19 excited is about the actual removal of ICE from  
20 Rikers, and that's an important piece to this  
21 legislation. As we move forward and talk to the  
22 Administration about some of the questions, we want  
23 to remain resolved that we really decrease the  
24 presence, the ICE presence in our communities. And  
25 so all the questions that were asked today, all the

2 still kind of lingering issues we will continue to  
3 maintain, and what we do know that, and this is what  
4 I'm feeling directly in my own district in Sunset  
5 Park, when we think about our relationship, our  
6 community's relationship with NYPD, these things  
7 begin to offer different, a different ecosystem of  
8 experience for our immigrant communities. And at a  
9 time right now that is high pressure, high stakes,  
10 and each of these pieces, and I brought up Municipal  
11 ID cards, I brought up the New York Immigrant Family  
12 Unity Project, we, this council yet again was  
13 committed to legal representation for unaccompanied  
14 minors. These are all pieces to the whole puzzle,  
15 and this is just one of them. And so we're going to  
16 continue to come back with fierce activity that is in  
17 so many ways brought from our residents, but also our  
18 organizations, our legal services providers, our  
19 coalitions that have formed around this, and so I  
20 want to thank you all for staying with us throughout  
21 this conversation. Thank you for being the last  
22 panel. Thank you for those who went through the  
23 cacophony of noise through the construction that was  
24 happening, and we're going to continue to move  
25 forward and move expeditiously. Thank you so much,

2 and again, thank you for the staff, Jennifer Montalvo  
3 and Katalina Cruz [sp?], and all the staff that have  
4 made this possible today. And I now adjourn this  
5 hearing.

6 [gavel]

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COMMITTEE OF IMMIGRATION

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date October 21, 2014